

COPY

CIVIL DISTRICT COURT
PARISH OF ORLEANS
STATE OF LOUISIANA

GLORIA SCOTT AND
DEANIA JACKSON

NO. 96-8461

VERSUS

DIVISION "K"

THE AMERICAN TOBACCO
COMPANY, INC., ET AL.

DOCKET NO. 4

* * * * *

Videotaped deposition of LUCY
LOUISE HENKE, 807 White Oak Drive, Lafayette,
Louisiana 70506, taken in the Law Offices of
Adams and Reese, L.L.P., Suite 4500, One Shell
Square, 701 Poydras Street, New Orleans,
Louisiana 70139, commencing at 9:13 o'clock
a.m., on Friday, the 20th day of October, 2000.

APPEARANCES:

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VIDEOTAPED BY:

Todd Meaux, CLVS
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REPORTED BY:

CHERYL FOURNET HUFFMAN, RMR, CRR
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I N D E XPAGE

EXAMINATION BY MR. BRUNO:

6

EXHIBITS

"Henke Exhibit Number 1":

19

(Letter to Mr. Stephen L.
 Kaczynski from Lucy L.
 Henke, dated October 25,
 1993, with attachments)

S T I P U L A T I O N

It is stipulated and agreed by and among counsel for the parties hereto that the deposition of the aforementioned witness is hereby being taken under the Louisiana Code of Civil Procedure, Article 1421, et seq., for all purposes, in accordance with law;

That the formalities of reading and signing are specifically not waived;

That the formalities of filing, sealing, and certification are specifically waived;

That all objections, save those as to the form of the question and the responsiveness of the answer, are hereby reserved until such time as this deposition, or any part thereof, may be used or thought to be used in evidence.

* * * * *

CHERYL FOURNET HUFFMAN, Registered Merit Reporter, in and for the Parish of Orleans, State of Louisiana, officiated in administering the oath to the witness.

P R O C E E D I N G S

THE VIDEOGRAPHER:

This is the videotaped deposition of Lucy Louise Henke being held at 701 Poydras Street, New Orleans, Louisiana on October 20, 2000, at the time indicated on the video screen, which is 9:13 a.m.

My name is Todd Meaux and I'm a certified legal video specialist with Depo-Vue. The court reporter is Cheryl Huffman with Huffman and Robinson.

Would counsel please introduce themselves?

MR. BRUNO:

Joseph Bruno for the class.

MR. LONG:

Gary Long with Shook, Hardy and Bacon, representing Philip Morris and Lorillard.

MS. ROUEN:

Debbie Rouen from Adams and Reese, representing Philip Morris.

MS. TYLER:

Julia Tyler, Johnson, Tyler and Purvis, representing Philip Morris.

1 MR. MOUNGER:

2 Price Mounger, Gauthier, Downing,
3 for the class.

4 MR. PRESTON:

5 Robert Preston for the class.

6 LUCY LOUISE HENKE,

7 after having been first duly sworn by the
8 above-mentioned Registered Merit Reporter,
9 did testify as follows:

10 EXAMINATION BY MR. BRUNO:

11 Q. Okay. Good morning, Ms. Henke. I
12 know that we've already deposed you once
13 before, so let's see if we can't get kind of
14 right to it.

15 Your work, have you ever actually
16 designed a marketing program?

17 A. I've designed marketing research
18 studies to be used for marketing programs. And
19 research is a part of marketing, so --

20 Q. All right.

21 A. I'm not sure what you --

22 Q. Marketing research programs for --
23 I'm sorry -- for what?

24 A. Well, to be used for several
25 different things. Sometimes used in publicity

1 campaigns, some used in advertising campaigns.

2 Q. What's the difference between a
3 publicity campaign and an advertising campaign?

4 A. Publicity is marketing communica-
5 tions where the sponsor is not identified.
6 Advertising is marketing communications where
7 the sponsor is identified.

8 Q. All right. Why on earth would you
9 want to do a publicity campaign if you're not
10 identifying the sponsor? What would be the
11 purpose of that?

12 A. Publicity campaigns usually occur
13 as part of a larger marketing communications
14 campaign. It's just one element in the
15 promotional mix. It's another way of
16 communicating with your audience. And it
17 provides, in many cases, a different source
18 of information.

19 Q. Well, I know it provides a
20 different source. My question is why? Why on
21 earth would you do such a thing if you're not
22 identifying the sponsor?

23 MR. LONG:

24 Object to the form.

25 A. I'm not --

1 EXAMINATION BY MR. BRUNO:

2 Q. I mean, in your field they do this
3 stuff; right?

4 A. Publicity campaigns are undertaken,
5 yes.

6 Q. Okay. So I'd imagine that there's
7 some logical reason to do it; right?

8 A. Yes.

9 Q. Yes? No?

10 A. Yes.

11 Q. Yes, there is a logical reason.
12 And you're an expert, so you should know that
13 reason, right? So what's the reason?

14 MR. LONG:

15 Object to the form.

16 A. If you would like to talk about a
17 specific example, maybe we can get some details
18 on some campaign you have in mind.

19 EXAMINATION BY MR. BRUNO:

20 Q. Well, how about we do it the other
21 way. Why don't you give me an example of a
22 publicity campaign and then we'll go at it that
23 way. Since I don't really understand it and
24 know about it, I presume you do. Can you think
25 of a publicity campaign?

1 MR. LONG:

2 Object to the form.

3 A. This is working with pretty broad --
4 We're diving right in here to pretty broad
5 points. But I'll try to answer your questions.

6 EXAMINATION BY MR. BRUNO:

7 Q. Well, it's intentionally broad
8 because I want you to be able to explain to
9 me and the jury, you know, what these various
10 terms mean. I imagine that in school the terms
11 are taught, aren't they?

12 A. That's right.

13 Q. And when you're in a classroom,
14 there's a professor that gets up there and
15 talks about what a publicity campaign is;
16 right?

17 A. Yes.

18 Q. Sure.

19 A. Yeah.

20 Q. And he probably goes and explains
21 what it is; doesn't he?

22 A. She could do that.

23 Q. Okay. Well, I'm the student and
24 I'd like for you to be the teacher. So we'll
25 do it any way you'd like. If you'd like to

1 give me an example of a publicity campaign and
2 then perhaps we'll use that as our model for
3 questions, that would be acceptable. Or we can
4 approach it from the general or broad
5 perspective and just talk about what they are
6 and what their purposes are and what is sought
7 to be accomplished by them.

8 So which way would you like to go?

9 A. Okay. We'll start with what is
10 publicity and --

11 Q. Good.

12 A. It's a part of what you would call
13 public relations. It's one element of the
14 marketing communications mix. Other elements
15 would include such things as advertising,
16 direct marketing, sales promotion, Internet or
17 interactive advertising, personal selling.

18 Q. Just a little slower. Advertising,
19 direct marketing, the next one?

20 A. Sales promotion, interactive or
21 Internet marketing, personal selling.

22 Q. Okay. And I take it with
23 advertising, you identify the sponsor?

24 A. Advertising is paid nonpersonal
25 communication where the sponsor is identified.

1 Q. And direct marketing, you identify
2 the sponsor; right?

3 A. Yes.

4 Q. And in sales promotion, you
5 identify the sponsor?

6 A. Yes.

7 Q. And in personal selling, you
8 identify the sponsor?

9 A. Yes.

10 Q. Okay. So and the reason why my
11 interest is piqued is because this is the only
12 one where you don't identify the sponsor, and
13 that's why I want to learn a little bit about
14 it. Okay. So I understand that it's a part of
15 this mix, all right? That's fine. But we
16 still don't know what it is exactly.

17 A. Publicity is attempting to get the
18 media to carry the information that you would
19 like to have reach your target.

20 Q. Okay. That you would like to get
21 to the target.

22 A. (Witness nods head affirmatively.)

23 Q. Okay. Now, we know what it is.
24 Why would you want to do that?

25 A. It's another way of reaching your

1 target with the information that is part of the
2 message you want to convey in your campaign.

3 Q. Okay. But I guess the part that's
4 confusing is I understand it to be another way
5 to reach the target. But I don't understand
6 what good it would do if the audience doesn't
7 know who sponsored it.

8 MR. LONG:

9 There's no question.

10 THE WITNESS:

11 Okay.

12 MR. BRUNO:

13 That is a question.

14 MR. LONG:

15 You said you don't understand
16 something.

17 MR. BRUNO:

18 Yes. So what would be the purpose
19 of it? We can read it back again. I've
20 got my little handy machine here.

21 EXAMINATION BY MR. BRUNO:

22 Q. I understand it to be another way
23 to reach the target, but I don't understand
24 what good it would do if the audience doesn't
25 know who sponsors it. So why would you do it

1 if the audience doesn't know who sponsored it?

2 A. Well, if you have, for example, a
3 news conference or a press release and the
4 newspaper would decide that's content that's
5 worthy of covering, they may mention the brand,
6 they may not mention the brand. If it's viewed
7 as newsworthy and is covered by the media --

8 Q. Right.

9 A. -- you can reach your target
10 through the news media.

11 Q. So what I think I'm hearing you
12 say -- and tell me if I'm wrong -- but you're
13 trying to influence opinion on an issue with
14 this device?

15 MR. LONG:

16 Object to the form.

17 A. That's --

18 EXAMINATION BY MR. BRUNO:

19 Q. That's what? Not true?

20 A. That's not necessarily true, no.

21 Q. It could be true?

22 A. Could be.

23 Q. Could be?

24 A. (Witness nods head affirmatively.)

25 Q. I mean, are you telling me that

1 advertisers never use publicity campaigns to
2 influence the target audience's opinion?

3 A. I don't think I said that.

4 Q. Okay. So it is -- a publicity
5 campaign is a legitimate method of influencing
6 the opinion of the target audience?

7 A. That could be an objective of a
8 publicity effort.

9 Q. Right.

10 Now, in that kind of an effort,
11 does it rely on the fact that or at least --
12 Withdraw. Is there an expectation that every
13 single solitary member of the target audience
14 will actually read or hear the message?

15 A. Of course not.

16 Q. Of course not.

17 Well, how then -- I mean, is there
18 some translation of the message in the target
19 audience? In other words, you generate
20 conversation or you generate interest in an
21 issue, is that part of the process?

22 MR. LONG:

23 Object to the form.

24 A. I don't understand what you're
25 asking me. Could you do that again?

1 EXAMINATION BY MR. BRUNO:

2 Q. I will. I will.

3 When you send a message out, you
4 certainly understand that not every single
5 person in the target audience will either read
6 or hear the message. I'm just wondering if in
7 the industry there is some expectation that
8 there is some translation of the message, that
9 is, or some transmission of the message through
10 communication within the target audience about
11 the subject?

12 MR. LONG:

13 Object to the form.

14 A. I really don't know -- Those aren't
15 terms or parts of any models that I'm familiar
16 with.

17 EXAMINATION BY MR. BRUNO:

18 Q. Well, I guess I'm not using the
19 right terms. I'm not an expert. But what I'm
20 talking about is that if the person who sees
21 the message and reads the message, do you have
22 any, in the industry, is there any expectation
23 or any interest or are there some words to
24 describe how that person becomes the
25 transmitter of the message to other people

1 within the audience? Or has that just not
2 happened ever?

3 MR. LONG:

4 Object to the form.

5 EXAMINATION BY MR. BRUNO:

6 Q. I mean, you don't get it? Going
7 way over your head?

8 A. I have a feeling you must have
9 something in mind and I'm not connecting with
10 it.

11 Q. Oh, I do have something in mind.

12 A. Okay.

13 Q. We're not connecting, so let's see
14 if we can connect.

15 What is a target audience?

16 A. A target audience is the prime
17 prospect. It's the person or organization most
18 likely to use the product or the service or the
19 activity that you're discussing. And it is the
20 entity around which you shape the entire
21 campaign.

22 Q. Okay. Now you call it an entity.
23 But what it really is, it's a group of human
24 beings; right?

25 A. Or organizations.

1 Q. Or organizations. Okay. Either
2 one. And what I'm wondering is: Is it a
3 legitimate exercise to, in the process of this
4 publicity campaign, to persuade the people in
5 that target audience to start to talk about the
6 subject and, in that process, communicate the
7 message themselves, they become the
8 communicators?

9 MR. LONG:

10 Object to the form.

11 A. In some cases, that could be one of
12 the goals of a campaign.

13 EXAMINATION BY MR. BRUNO:

14 Q. All right. Well, I'm wondering is
15 that something that advertisers consider or is
16 it just one of these things that may happen
17 that they don't even regard?

18 A. It depends on the advertiser, it
19 depends on the product, it depends on the goals
20 of the campaign.

21 Q. All right. So I'm hearing you tell
22 me that it is one of the things that an
23 advertiser might want to rely on to get the
24 message out?

25 A. What is "it" that you're talking

1 about?

2 Q. The "it" that I'm talking about is
3 the desire to have the target audience
4 individual start acting as the communicator of
5 the message. For example, I saw such-and-such
6 on TV and I'm talking to my friends, "Did you
7 hear about such-and-such? What do you think
8 about that?" And they become the person giving
9 the message. Is that something -- Am I off the
10 wall? Is that not something that advertisers
11 even remotely consider?

12 A. No, that's --

13 MR. LONG:

14 Object to the form of the question.

15 THE WITNESS:

16 What you describe could be an
17 objective of a campaign if the objective
18 is related to generating awareness.

19 EXAMINATION BY MR. BRUNO:

20 Q. Okay. Well, so what I'm trying to
21 find out, though, is there some term of art in
22 the industry that describes that exercise?

23 MR. LONG:

24 Object to the form.

25 A. What is the exercise?

1 EXAMINATION BY MR. BRUNO:

2 Q. Well, let's do it again.

3 The exercise is that I'm intending
4 to communicate to my target audience and then
5 have them communicate to others in the
6 audience. For example, I saw such-and-such on
7 the TV, it becomes a topic of conversation in
8 the barrooms, it becomes an issue for
9 discussion at the dinner table, things like
10 that.

11 I mean, you're looking at me like
12 I'm off the wall. Is that something that
13 advertisers think about or not? I mean, if
14 it's not, we'll get off of it. But if it's
15 something that they use or if it's a device
16 that they use, I want to know about it.

17 MR. LONG:

18 Object to the form.

19 A. I don't know what advertisers,
20 per se, use. I can talk about what kinds
21 of research has been done in marketing
22 communications. Some of the early
23 communication research identifies opinion
24 leaders. It sounds as if this might be what
25 you're referring to.

1 EXAMINATION BY MR. BRUNO:

2 Q. Okay. All right. Well, is your
3 expertise limited only to research and you
4 don't know anything about marketing?

5 MR. LONG:

6 Object to the form.

7 EXAMINATION BY MR. BRUNO:

8 Q. "Yes" or "No"?

9 I mean, I'm listening to your
10 answers. You're saying that if I'm talking
11 about marketing, that's something else. But
12 research is what I'm here to talk about. So
13 which is it?

14 MR. LONG:

15 Object to the form.

16 A. I don't think I said research is the
17 only thing I'm here to talk about.

18 EXAMINATION BY MR. BRUNO:

19 Q. All right. Are you an expert in
20 marketing?

21 A. I'm here as an expert in
22 advertising, marketing communications, consumer
23 behavior decision-making.

24 Q. All right. So you are an expert in
25 marketing; right?

1 A. To the extent that marketing
2 communications and advertising and consumer
3 behavior.

4 Q. Okay. Well, we are talking about
5 marketing communications; aren't we?

6 A. Well, these are all subsets of
7 marketing. I'm not an expert in retailing and
8 distribution and channeling and logistics.

9 Q. See, I don't think I said anything
10 about retailing, distribution or channeling.

11 A. You said marketing. And that
12 includes a lot of, a lot of activities.

13 Q. Okay. But I don't recall saying
14 anything about retailing. Did you hear me say
15 anything about retailing?

16 A. In asking if I'm an expert in
17 marketing in total, yes, you are asking me
18 that.

19 Q. Okay. All right. Well, let's see
20 if we can limit it. I'm talking about an
21 expert in marketing communications.

22 A. Yes?

23 Q. Okay.

24 A. I'm asking you, "Yes?"

25 Q. Yes.

1 A. What's the question?

2 Q. Well, are you an expert in
3 marketing communications?

4 A. Yes, I'm here as an expert in
5 marketing communications.

6 Q. Okay. So you are. So you know a
7 little something about opinion leaders?

8 A. Yes.

9 Q. Okay. Well, what are they?

10 A. Opinion leaders were identified in
11 early studies in the forties as individuals to
12 whom the majority of recipients of information
13 go for advice and information.

14 Q. I see. Like doctors? Would that
15 -- Could that -- Would a group of doctors be --

16 A. Not necessarily, no.

17 Q. Could it be?

18 A. It could be almost anything you
19 describe. But it depends on who you're
20 attempting to reach and who that individual
21 believes is a leader, has expertise in the
22 topic area, and to whom that individual would
23 turn for information and guidance on that
24 topic. And it is topic specific.

25 Q. Right.

1 So if the topic was health, the
2 doctor could be an opinion leader; right?

3 A. A doctor could be an opinion leader
4 for a person who has questions about health.
5 It could be one of the opinion leaders that
6 person would turn to.

7 Q. I understand.

8 Okay. So how does it work? In
9 other words, you try to influence the opinion
10 leader with the expectation that the opinion
11 leader will spread the message to the people
12 who seek out that -- his or her advice?

13 MR. LONG:

14 Object to the form.

15 EXAMINATION BY MR. BRUNO:

16 Q. Is that what you do? No? Wrong?
17 Off the wall?

18 A. If you have identified a target
19 appropriately --

20 Q. Okay.

21 A. -- and you identify the people who
22 are most likely to use the product or service
23 that you're communicating about --

24 Q. Yes.

25 A. -- you don't need to attempt to

1 control what those people do with the
2 information. The focus is on a primary target.

3 Q. Well, I don't understand --

4 A. If those people turn out to be
5 opinion leaders, that's a separate issue.

6 Q. Well, I don't know that that
7 answers my question because I'm specifically
8 talking about the business of opinion leaders.
9 Maybe you need to explain more about that. Are
10 there opinion leaders, that's a term of art in
11 the industry; is that --

12 A. It's known.

13 Q. It's known.

14 Okay. So in what context is that
15 term of art utilized?

16 A. Talking about communication
17 models and --

18 Q. Okay. Communication models.

19 A. -- communication flow.

20 Q. And flow. Okay. What is a
21 communication model?

22 A. A communication model will identify
23 the flow of information from source to receiver.
24 There are a couple of different ways of looking
25 at communication flow.

1 Q. Okay. All right. So what it is is
2 you identify the flow of information from the
3 source to the receiver. I see. So it could
4 go from the person sending the message to the
5 opinion leader and from the opinion leader to
6 those people who rely on the opinion leader for
7 advice, right?

8 A. If you look at it in terms of the
9 broad societal perspective, yes.

10 Q. I see. So in advertising, is it
11 recognized that you might want to influence the
12 opinion leader with your message so that the
13 opinion leader will offer the advice that the
14 sponsor wants to have communicated?

15 MR. LONG:

16 Object to the form.

17 A. To the extent that you can identify
18 opinion leaders, that might be a positive way
19 to approach a campaign.

20 EXAMINATION BY MR. BRUNO:

21 Q. You know, you're acting like y'all
22 never do that? You never identify opinion
23 leaders? I mean, when you say to the extent
24 you can, you make it sound like you never do
25 that. Is it impossible?

1 MR. LONG:

2 Object to the form.

3 EXAMINATION BY MR. BRUNO:

4 Q. Is that a hard question? Is it
5 impossible to identify opinion leaders? "Yes"
6 or "No"?

7 A. It is not impossible --

8 Q. It is something -- Is it something
9 that you do --

10 -- to identify opinion leaders.

11 MR. LONG:

12 Let the witness finish an answer.

13 MR. BRUNO:

14 Okay. All right. Fine. I'm just
15 -- I don't want to -- You know, I don't
16 know this field and you look so puzzled
17 every time I ask a question and I want to
18 make sure that I'm asking the right --
19 using the right words for you, okay?

20 THE WITNESS:

21 Okay.

22 MR. LONG:

23 I understand that. But when you ask
24 her a question, let her answer the question

25 MR. BRUNO:

1 And I apologize. You're right. And
2 I will. I will. But that's the source of
3 my confusion and frustration, so please
4 pardon me.

5 EXAMINATION BY MR. BRUNO:

6 Q. So I guess I'm really confused
7 here. I mean, do you use opinion leaders in
8 the industry or not?

9 A. Some people may use opinion
10 leaders. In their objectives of ad campaigns,
11 I'm not familiar with that being used on a
12 regular basis as a focus of a campaign. More
13 than likely, the person who's the focus of the
14 campaign is the prime prospect. Now, if those
15 people turn out to be opinion leaders, they may
16 generate awareness and excitement about the
17 communication, about the message.

18 But in order to identify opinion
19 leaders, you would have to go to a great deal
20 of expense and effort because every person has
21 a different set of opinion leaders. And those
22 vary by topic --

23 Q. Right.

24 A. -- and they vary by any of a number
25 of factors.

1 MR. BRUNO:

2 Cheryl, you missed a whole line.

3 (Whereupon a discussion was held off
4 the record.)

5 THE VIDEOGRAPHER:

6 We're going off the record at 9:34.

7 (Whereupon a brief recess was taken
8 at this time from 9:34 o'clock a.m. to
9 9:37 o'clock a.m.)

10 THE VIDEOGRAPHER:

11 We are back on the record at 9:37.

12 EXAMINATION BY MR. BRUNO:

13 Q. All right. First, I made a drastic
14 and dramatic mistake for which I will pay for
15 the rest of my life. Cheryl did get it all
16 down, I misread it.

17 Now, Ms. Henke, I'm really confused
18 because I'm concerned about this business of
19 who the focus of the campaign is. The prime
20 prospect in any campaign is to communicate to
21 the target audience; right?

22 A. No.

23 Q. It's not?

24 A. No.

25 Q. Okay. What are you trying to do

1 with the target audience then?

2 A. The prime prospect is the target.

3 Q. Okay. I thought that's what I just
4 said. All right. The prime prospect is the
5 target. Fine. And what I'm confused about is
6 whether or not you use opinion leaders to get
7 to the prime prospect?

8 A. And the answer is "No."

9 Q. No. But it sounds to me like that
10 could be just a difference of opinion. Because
11 if you're trying to communicate the message,
12 you're going to use whatever vehicle you can to
13 communicate the message?

14 MR. LONG:

15 Object --

16 EXAMINATION BY MR. BRUNO:

17 Q. And you're telling me you don't use
18 opinion leaders?

19 MR. LONG:

20 Object to the form.

21 EXAMINATION BY MR. BRUNO:

22 Q. It sounds like it's semantics to
23 me. Am I wrong?

24 A. I think so.

25 Q. Okay. All right. So you're

1 telling me when you want to -- when you want to
2 influence an opinion leader, that becomes the
3 target audience?

4 MR. LONG:

5 Object to the form.

6 EXAMINATION BY MR. BRUNO:

7 Q. Right?

8 A. No. What I'm -- I think the
9 confusion might be in the fact that an opinion
10 leader is designated as such, not by himself or
11 herself, not by an advertiser, but by the
12 person who would turn to that individual --

13 Q. I understand that.

14 A. -- to seek the information.

15 Q. Of course.

16 But the end result is the same.
17 You want that opinion leader to communicate
18 to those people who rely on that person for
19 advice?

20 MR. LONG:

21 Object to the form.

22 EXAMINATION BY MR. BRUNO:

23 Q. Right? Or you don't?

24 A. Not necessarily.

25 Q. You don't?

1 A. Not as an objective of your
2 campaign, no.

3 Q. Not necessarily. But it could be
4 one of the things you would want?

5 MR. LONG:

6 Object to the form.

7 EXAMINATION BY MR. BRUNO:

8 Q. If you were a cigarette
9 manufacturer and you wanted the people who
10 smoke cigarettes to know that it's healthy,
11 might you not want to persuade doctors that
12 it's healthy? Or is that just off the wall?

13 MR. LONG:

14 Object to the form.

15 A. I think I see part of the problem
16 here is that you are --

17 EXAMINATION BY MR. BRUNO:

18 Q. All right. Maybe you can teach me
19 then.

20 A. The focus has to be on the consumer
21 that you're trying to reach.

22 Q. Okay. So the focus on the
23 consumer.

24 A. Each of those consumers will have a
25 different idea about who an opinion leader is.

1 Q. Right.

2 A. It could be my mother, my father,
3 my brother who's off in college.

4 Q. Right. So your testimony is --

5 A. It could be my daughter.

6 MR. LONG:

7 Let the witness finish answering,

8 Joe.

9 MR. BRUNO:

10 Okay.

11 THE WITNESS:

12 It could be my daughter, my son.

13 EXAMINATION BY MR. BRUNO:

14 Q. Son. Okay.

15 A. It could be --

16 Q. The priest?

17 A. -- the woman down the street. It
18 could be a priest.

19 Q. Sure. Okay. So you could have a
20 long list?

21 A. Yes.

22 And that list is going to change
23 with every product category and with every
24 situation, every purchase situation --

25 Q. Right.

1 A. -- that list will change. Not just
2 for each individual but within individuals,
3 depending on the purchase decision, the opinion
4 leader will change.

5 Q. Right.

6 A. So it's a dynamic concept.

7 Q. I understand that.

8 So I would imagine that you have to
9 do research to find out who these people might
10 be for a particular product; right?

11 MR. LONG:

12 Object to the form.

13 A. You would have to conduct research
14 with your target group --

15 EXAMINATION BY MR. BRUNO:

16 Q. To find those people out?

17 A. -- to identify for which product
18 purchases they would have opinion leaders or
19 individuals they know that they would identify
20 as opinion leaders, yes.

21 Q. Okay. All right. So that if I
22 was a cigarette manufacturer and I wanted to
23 communicate to the public about the health
24 effects of smoking, or the lack thereof, what
25 I might want to do is I might want to do some

1 marketing research to identify who the opinion
2 leaders are in my population of smokers; right?

3 MR. LONG:

4 Object to the form.

5 A. In your example here, like I say,
6 if you want to reach a target group and
7 identify who they see as opinion leaders for
8 certain purchase decisions, research would be
9 appropriate.

10 EXAMINATION BY MR. BRUNO:

11 Q. It would be appropriate.

12 Okay. And you could, therefore,
13 identify who the opinion leaders are on the
14 issue of the health effects of smoking within
15 the population of smokers; right?

16 MR. LONG:

17 Object to the form.

18 EXAMINATION BY MR. BRUNO:

19 Q. "No"? Or "Yes"? Impossible?
20 Why do the research then if you can't get the
21 answer?

22 MR. LONG:

23 Object to the forms of the
24 questions.

25 A. Most of the research that's been

1 done recently doesn't use the term "opinion
2 leaders." It looks, instead, for influence
3 factors in a person's decision and which people
4 and which other agents are influential in the
5 purchase decision.

6 EXAMINATION BY MR. BRUNO:

7 Q. I don't know that I made any
8 distinction about now. We've been talking now
9 for some time about opinion leaders, okay? So
10 can we stick to that?

11 A. Well, --

12 Q. Is that okay?

13 A. -- if you'd like to keep discussing
14 that, yes --

15 Q. I would.

16 A. -- we can talk about that.

17 Q. I would.

18 A. But opinion leadership was
19 discussed in pretty early models of
20 communication and --

21 Q. Good. And that's what I want to
22 talk about.

23 MR. LONG:

24 Let the witness finish an answer,
25 Joe. You keep interrupting.

1 MR. BRUNO:

2 Well, why don't you just -- why
3 don't you go visit with your witness and
4 tell her off the record, if you want to --

5 MR. LONG:

6 No, I'm not going to visit with the
7 witness.

8 MR. BRUNO:

9 Well, that's what I want.

10 MR. LONG:

11 I'm going to tell you that she's
12 entitled --

13 MR. BRUNO:

14 Counsel, I'm sorry.

15 MR. LONG:

16 -- to give an answer to the
17 question.

18 MR. BRUNO:

19 I'm not going to ask a question
20 and have her go off on some tirade about
21 something I didn't ask about, okay?

22 MR. LONG:

23 Why don't you ask a question --

24 MR. BRUNO:

25 I don't want to play the games here.

1 MR. LONG:

2 -- about something specific?

3 MR. BRUNO:

4 I am.

5 MR. LONG:

6 We're not playing games.

7 MR. BRUNO:

8 Yes, we are.

9 MR. LONG:

10 We have rules.

11 MR. BRUNO:

12 I'm asking about -- Yes, we are.

13 I'm asking about opinion leaders.

14 MR. LONG:

15 And the rules are that the witness
16 answers the question, then you ask a new
17 one.

18 MR. BRUNO:

19 And that's what I want to talk
20 about. I'm asking about opinion leaders
21 and she changes the subject. I don't want
22 any of that foolishness right now, okay?
23 I want to get through this in as quick a
24 time as possible.

25 MR. LONG:

1 Well, let's do it.

2 MR. BRUNO:

3 Well, fine. Then why don't you have
4 a visit with your client here and tell her
5 to answer the question?

6 MR. LONG:

7 She's not my client. She's a
8 witness. Ask a question, she'll give
9 an answer, I'll go ahead and make my
10 objection.

11 MR. BRUNO:

12 All right. We'll try it one more
13 time.

14 EXAMINATION BY MR. BRUNO:

15 Q We're talking about opinion
16 leaders, okay?

17 A. You're yelling about opinion
18 leaders.

19 Q. No, I'm not yelling about anything.
20 I'm frustrated.

21 MR. LONG:

22 Let's take a break. Let's take a
23 break, take a break.

24 EXAMINATION BY MR. BRUNO:

25 Q. No, I would appreciate if you would

1 answer my questions.

2 A. I'm trying to, Mr. Bruno.

3 Q. I know. I can see you're pained in
4 the process. But you know what? If you'd just
5 slow down and --

6 MR. LONG:

7 Joe, let's just quit this. Let's
8 take a break.

9 EXAMINATION BY MR. BRUNO:

10 Q. -- answer the questions, it wouldn't
11 be that difficult.

12 MR. LONG:

13 Off the record, let's take a break.

14 MR. BRUNO:

15 If you want to take a break, any
16 time you want to --

17 MR. LONG:

18 We're taking a break.

19 MR. BRUNO:

20 -- but this will take three weeks.

21 THE VIDEOGRAPHER:

22 We're going off the record at 9:44.

23 (Whereupon a brief recess was taken
24 at this time from 9:44 o'clock a.m. to
25 9:51 o'clock a.m.)

1 THE VIDEOGRAPHER:

2 We are back on the record at 9:51.

3 EXAMINATION BY MR. BRUNO:

4 Q. Okay. Now, Ms. Henke, I asked you
5 specifically: "If I was a cigarette manufac-
6 turer and I wanted to communicate to the public
7 about the health effects of smoking, or the
8 lack thereof, what I might want to do is I
9 might want to do some marketing research to
10 identify who the opinion leaders are in my
11 population of smokers; right?"

12 And your answer was: "In your
13 example here, like I say, if you want to reach
14 a target group and identify who they see as
15 opinion leaders for certain purchase decisions,
16 research would be appropriate."

17 Do you remember that exchange?

18 A. Yes.

19 Q. Okay. We were talking about
20 opinion leaders; right?

21 A. Yes.

22 Q. Weren't we?

23 A. Yes.

24 Q. Okay. Good.

25 And you understood that's what I

1 was asking you about when I asked the question?

2 A. Yes.

3 Q. Okay. Good.

4 All right. And then I said: "It
5 would be appropriate. Okay. And you could
6 identify who the opinion leaders are on the
7 issue of the health effects of smoking within
8 the population of smokers; right?" And that's
9 when you said: Well, we don't use opinion
10 leaders anymore. Okay?

11 A. Okay.

12 Q. Remember that?

13 A. Yes.

14 Q. All right. I'm talking about the
15 use of the word "opinion leaders." I'm not
16 talking about recent.

17 A. All right.

18 Q. I'm talking about in the past.

19 Do you know who the plaintiffs are
20 in this case?

21 A. Do I know who the plaintiffs are?

22 Q. Yes.

23 A. Several of the tobacco companies.

24 I don't know --

25 Q. No, the plaintiffs. Our side.

1 A. I'm sorry.

2 Q. The defense is their -- is your
3 side.

4 A. I'm sorry. Yes, I do know.

5 Q. Okay. All right. Do you know who
6 -- Who are they?

7 A. Well, it's a class action, as I
8 understand it. And there are some people who
9 represent a certain class at this point.

10 Q. The class. Do you know who those
11 people are?

12 A. Two of them.

13 Q. Okay. Do you know their names?

14 A. Deania Jackson and Gloria Scott.

15 Q. Okay. And do you know when Ms.
16 Jackson started smoking?

17 A. She said she was -- Let me see if
18 I can remember this correctly. I think Ms.
19 Jackson said she was 12.

20 Q. Okay. Do you know when that might
21 be? Like in time?

22 A. Well, let's see. I think she's
23 thirty -- Wait a minute. She's 39 or so now,
24 so we'll subtract.

25 Q. So that gets us to about what? The

1 seventies, roughly?

2 A. Okay. I think she started at 12.

3 Q. Okay. So where would that be in
4 time? 1950, '60, '70, '80?

5 A. Like early seventies.

6 Q. Early seventies. Okay.

7 A. '72.

8 Q. How about Ms. Scott? I know she's
9 52. And when did she say -- Do you know when
10 she says she started smoking?

11 A. She had a couple of different
12 reports. She said she lied at one point
13 because she was embarrassed to say how much
14 she smoked.

15 Q. I don't think she said that, but
16 that's okay.

17 A. Oh.

18 Q. Yeah.

19 A. Well, I'm sorry. My recollection
20 of the deposition is --

21 Q. -- probably different than mine.

22 A. Okay.

23 Q. In any case, when did -- what is
24 her self-report of start?

25 A. It was -- It was pretty young. I

1 don't remember the exact age.

2 Q. Say 10? Can we use 10?

3 A. It could have been about 10, 9 or
4 10.

5 Q. Okay. So that would be about 42
6 year ago?

7 A. Uh-huh (indicating affirmatively).

8 Q. So that would be like -- can we
9 agree? -- maybe late fifties, early sixties?

10 A. I think she was born in '46, so
11 we'll say about '56, if that recollection is
12 right.

13 Q. Mid fifties?

14 A. Uh-huh (indicating affirmatively).

15 Q. Can we talk about mid fifties?

16 A. Uh-huh (indicating affirmatively).

17 Q. I just want to get a time frame.

18 So we're talking about at least the
19 mid fifties to the seventies with regard to
20 when these two ladies started smoking and were
21 smoking; right?

22 A. Right.

23 Q. Okay. Was the term "opinion
24 leader" used then?

25 A. Well, in the forties, some of the

1 work about opinion leaders had begun --

2 Q. Right.

3 A. -- in terms of research.

4 Q. Well, that doesn't answer my
5 question. Was the term used in the fifties
6 and sixties and seventies? "Yes" or "No"?

7 A. The term was used by some people
8 who were doing communication research, yes.

9 Q. Okay. All right. Were there some
10 other terms that people were using to describe
11 the same thing in the fifties and the sixties
12 and the seventies?

13 MR. LONG:

14 Object to the form.

15 EXAMINATION BY MR. BRUNO:

16 Q. Do you not know?

17 A. There were equivalent concepts, and
18 they may have had different names.

19 Q. All right. Well, what were they?

20 A. Socialization factors, factors of
21 influence.

22 Q. Okay.

23 A. Socialization agents, agents of
24 influence.

25 Q. Okay. All right. Now, let's ball

1 up all those terms into one now so that you and
2 I can be on the same page. Can we do that?

3 A. Yes.

4 Q. Okay. Good.

5 And then you can do -- we can now
6 get to my question, if we do that; can we?

7 A. Yes.

8 Q. All right. Because my question is
9 whether or not a cigarette manufacturer could
10 conduct research to identify these opinion
11 leaders? They could do that?

12 A. And other agents of socialization,
13 as we call them.

14 Q. Well, we balled them up into one.
15 Can we ball them up into one? Just pick a
16 name. Pick a name. You pick a name that you
17 like that we ball all these. Because you said
18 they're all equivalents. So let's pick a name
19 that you and I can both agree on and use that
20 as the term.

21 A. We can use both terms, if you like.

22 Q. It's okay with me if it's okay with
23 you.

24 A. Opinion leaders and other agents of
25 socialization.

1 Q: Okay. So let me write that down so
2 I won't mess it up.

3 A. Okay. We will agree on that.

4 Q. "Opinion leaders and other agents
5 of socialization." How do you spell that? Got
6 it, I think.

7 Okay. All right. "And other
8 agents of socialization." That's an interest-
9 ing phrase, "other agents of socialization."
10 So what does that -- what does that mean so
11 that I can understand the equivalence between
12 that and opinion leaders?

13 MR. LONG:

14 Object to the form.

15 MR. BRUNO:

16 What's wrong with the form?

17 MR. LONG:

18 Well, you're having a conversation
19 with yourself and once in a while you stop
20 and say, "Right?" You get about six
21 concepts into the question and then you --

22 MR. BRUNO:

23 Gee, I never heard the witness
24 object to not understanding the question.

25 Do you not understand my question?

1 Should I restate it? Change it?

2 THE WITNESS:

3 I'm working to understand your
4 questions.

5 MR. BRUNO:

6 Well, I thought you were, too.

7 EXAMINATION BY MR. BRUNO:

8 Q. But, in any case, what I would like
9 to know is what is an agent of socialization so
10 that I can understand its equivalence to an
11 opinion leader?

12 A. An agent of socialization is --
13 This is going to be loosely defined. I don't
14 have a textbook term for it. But an agent of
15 socialization would be an entity, an
16 individual, an organization, an element of the
17 communication environment which may have an
18 impact on a person's awareness or attitudes
19 or --

20 Q. Right.

21 A. -- behaviors, values.

22 Q. I understand. I understand.

23 So would it be a legitimate thing
24 for a marketer -- I'm sorry, a marketer -- a
25 sponsor -- Can I use the word "sponsor" to be

1 the person who wants to undertake this effort
2 to reach the target audience? Is that wrong,
3 too, or right, "sponsor"?

4 A. "Sponsor" is one term you could use
5 or "advertiser" or --

6 Q. Okay. Well, the cigarette
7 companies, obviously, is the subject of our
8 little discussion here. Would the cigarette
9 companies be the sponsor or would it be Hill
10 and Knowlton or somebody else or the lawyers?

11 MR. LONG:

12 Object to the form. Sponsor of
13 what?

14 A. I have no idea what you're talking
15 about.

16 MR. BRUNO:

17 Okay. What do you mean, "The
18 sponsor of what?"

19 MR. LONG:

20 You said: Would it be a sponsor? I
21 mean, what kind of communication? There's
22 no --

23 MR. BRUNO:

24 I'm sorry, Counselor. Maybe you
25 didn't pay attention, but I thought we

1 started this whole business with adver-
2 tising is communicating a message where
3 you identify the sponsor. So now I want
4 to make sure that I know what that means,
5 "the sponsor."

6 EXAMINATION BY MR. BRUNO:

7 Q. Is it the same as the cigarette
8 manufacturers when they're advertising their
9 message?

10 A. If a cigarette manufacturer has
11 placed an ad, a cigarette manufacturer would
12 be the sponsor of that ad.

13 Q. Well, is there some -- Are you
14 distinguishing between the advertising agency
15 who might place the ad specifically? Is this
16 term that specific or is it --

17 A. No, an ad agency would not be the
18 sponsor.

19 Q. Okay. All right. So in our
20 discussions, I can refer to the cigarette
21 manufacturers as the sponsor and you'll know
22 what I'm talking about?

23 A. If you can -- If you're referring
24 to a specific piece of communication they have
25 sponsored, yes.

1 Q. So, first, I've got to find the
2 communication and then you'll tell me as
3 opposed to I can't ask you questions about what
4 a sponsor who might want to communicate to the
5 target audience would do or not do? I can't
6 ask you general questions like that?

7 A. You can ask me those general
8 questions, but I really don't want to answer
9 general questions because we're dealing with
10 specific issues.

11 Q. Why don't you want to answer
12 general questions? How else can you teach the
13 jury and me what this subject is all about?

14 A. By using specifics.

15 Q. And when you were taught, you're
16 telling me that every time you went to a course
17 in advertising, you weren't taught broad
18 concepts of advertising?

19 A. I don't think I said that.

20 Q. Well, were you or were you not? In
21 school, were you taught broad concepts of
22 advertising?

23 A. As part of a package of --

24 Q. Well, sure. You had to have some
25 information --

1 A. Excuse me. I hadn't finished, I'm
2 sorry.

3 Q. Okay. Well, go ahead.

4 A. As part of a package of materials
5 over the course of a semester, two semesters,
6 three semesters, I'm certain that in there at
7 some point is a broad statement about
8 advertising. But it's always qualified with
9 the details.

10 Q. Right.

11 I mean, did y'all not have a
12 glossary of terms that you learned in the
13 field?

14 A. Well, sure.

15 Q. You did.

16 And they weren't specific, they
17 were general; weren't they?

18 A. Glossaries are definitions.

19 Q. They're definitions, right.

20 A. Yes.

21 Q. So, I mean, in other words, when
22 you talked about the word "advertiser," the
23 professor didn't have to show a commercial? I
24 mean, he could tell you what an advertiser was?

25 A. Yes.

1 Q. He could. He could do that?

2 A. (Witness nods head affirmatively.)

3 Q. All right. So he could define
4 certain terms. So there are certain terms of
5 art in the business; right? Like "sponsor"?

6 A. Yes.

7 Q. Okay. Or like "opinion leaders"
8 and "other agents of socialization" --

9 A. Yes.

10 Q. -- right?

11 Okay. So if I'm a sponsor and I
12 want to influence my target audience and what
13 I'm interested in is a message, a -- I think
14 you called it a -- that's the wrong page --
15 a publicity campaign, because I don't want to
16 identify myself but I want to communicate some
17 information to my target group, one of the
18 things I might consider is the identification
19 of opinion leaders and other agents of
20 socialization; right?

21 MR. LONG:

22 Object to the form.

23 A. If that's what you would want to
24 consider, yes, it's one of the things that you
25 would consider.

1 EXAMINATION BY MR. BRUNO:

2 Q. Well, how do I decide what it is
3 that I want to consider?

4 A. You would identify the prime
5 prospect.

6 Q. Okay. In our case, the prime
7 prospect is people?

8 A. Or organizations. It's a person or
9 organizations.

10 Q. Well, in our case organizations
11 don't smoke; right? I mean, we're talking
12 about people who smoke or not smoke.

13 A. Well, organizations are made up of
14 people. This is -- I just want to be specific
15 about my definitions.

16 Q. Well, that's good. I'll take that.
17 So it's going to be people or
18 organizations. And you could communicate to
19 the organization --

20 A. -- most likely to use your product.

21 Q. All right. But you're saying
22 organizations would fall into the category
23 of users because they're made up of people?

24 A. Well, business-to-business
25 communication focuses on business, not the

1 individuals within the business, although the
2 individuals in the business would have to be
3 categorized and their importance determined in
4 order to conduct a campaign to a business or
5 from business to business.

6 Q. Okay. So I'm just asking a real
7 simple question. Would you want to communicate
8 to organizations if you wanted to get people to
9 smoke?

10 A. It depends on what the objectives
11 are of the advertising.

12 Q. The objective is I want people to
13 smoke.

14 A. Well, I mean, I can't think of any
15 particular campaign aimed at businesses. But,
16 you know, anything's possible.

17 Q. Well, have you studied every
18 cigarette campaign that's ever been launched?

19 A. No, of course not.

20 Q. Okay. So we really can't talk
21 about specifics then, can we, if you haven't
22 looked at all of them?

23 A. We can talk about specifics.

24 Q. On some of the ones that --

25 A. I prefer to talk about specifics.

1 Q. The ones that you've chosen to look
2 at; right?

3 A. I think we're talking about a
4 process right now; aren't we?

5 Q. Yes. I'm talking about a process
6 and you keep talking about specifics, so it
7 occurred to me, well, you must have looked at
8 every single cigarette campaign that's ever
9 been run. But you haven't done that?

10 A. No, we're talking about defining
11 terms. And I think it's much better if we
12 define terms using specifics.

13 Q. All right. And I'm trying to give
14 you a specific, which is I want to sell
15 cigarettes. Is that not specific enough?
16 It's not?

17 A. If you would like to sell
18 cigarettes --

19 Q. I want to sell cigarettes.

20 A. -- we can start with that.

21 Q. That's what I want to do, I want to
22 sell cigarettes.

23 A. Fine.

24 Q. Okay. And I want to put it in some
25 historical perspective. It's the fifties or

1 the sixties. So that we don't change our terms
2 over time on us, okay?

3 A. Okay.

4 Q. Are you with me so far?

5 A. Yes.

6 Q. Okay. And you want to sell
7 cigarettes. I'm wondering if it would be
8 appropriate or it would be reasonable to
9 identify opinion leaders and other agents
10 of socialization in order to help me sell
11 cigarettes? Would that be a reasonable thing
12 to do?

13 A. If you have defined your prime
14 prospect, and part of the research regarding
15 your prime prospect's needs and problems and
16 values and attitudes are what they consider
17 influential sources of communication --

18 Q. Okay.

19 A. -- then yes.

20 Q. All right. Now, do you know
21 whether or not, in fact, any of the cigarette
22 manufacturers in the fifties, for example,
23 using -- and it's a broad period of time,
24 ten years -- do you know whether or not they
25 conducted any research to identify opinion

1 leaders or other agents of socialization during
2 that period of time?

3 A. No, I don't know that.

4 Q. You don't know that?

5 A. No.

6 Q. Well, have you been asked to look
7 into that issue?

8 A. No.

9 Q. No. So you don't know the answer
10 to the question?

11 A. That's right, I don't --

12 Q. You don't know the answer.

13 A. That's not my area.

14 Q. All right. It's not your area of
15 expertise when you say "It's not my area"?

16 A. Well, that's not -- No. What
17 companies have done in terms of proprietary
18 research is not something I have access to and
19 it's not an area that I can study.

20 Q. So what you've -- Help me to
21 understand what you've studied then.

22 A. Social science research.

23 Q. Of what?

24 A. I have studied communication
25 research, marketing communication research.

1 Q. Okay. In the context of this case,
2 in this particular case, what have you studied?
3 If you haven't looked at what the cigarette
4 companies did, what did you study?

5 A. I have a whole list of reliance
6 materials that I use for this case.

7 Q. Okay. All right. And those
8 reliance materials comprise the subject of
9 what?

10 A. Most of them are dealing with
11 consumer decision-making, some of them --

12 Q. Okay. Consumer decision-making.
13 Okay. All right. Now, if you
14 don't mind, let's take it one at a time. So
15 is it your testimony -- Let's see. You have
16 read research about consumer decision-making;
17 right?

18 A. I have done that, yes.

19 Q. Oh, you've actually done it, you've
20 done the research. Okay. And did you do that
21 in the fifties?

22 A. No.

23 Q. No?

24 A. I wasn't conducting research in the
25 fifties.

1

Q. In the sixties?

2

A. No, I wasn't conducting research.

3

Q. In the seventies?

4

A. Yes.

5

Q. So the work that you did was in the seventies; right?

6

7

A. I started doing research in the seventies.

8

9

Q. All right. Good.

10

Now, do you know if the tobacco

11

companies have done consumer decision-making research?

12

13

A. I don't know that.

14

Q. You don't know that. Would that be of interest to you?

15

16

A. It might be of interest.

17

Q. It might be, you know.

18

A. I'm interested in --

19

Q. I mean, your opinions -- I guess

20

what I'm trying to figure out is are your

21

opinions related to what was the intent of the cigarette companies --

22

23

A. No.

24

Q. -- in their advertising?

25

A. No.

1 Q. No. Your opinion is related to
2 what? The impact?

3 A. Yes.

4 Q. Just impact?

5 A. The impact of communication.

6 Q. Okay. The impact of communication.
7 Well, let me just ask you this:

8 Wouldn't it be possible that the cigarette
9 companies might have done their own research,
10 and their research might have revealed an
11 opinion or a finding that might be different
12 from yours?

13 A. I guess anything is possible. Yes,
14 it's possible. Is that what you asked?

15 Q. Well, would you be curious to know
16 if that were the case? No? Not curious?

17 A. Sure.

18 Q. Sure.

19 Okay. Well, I'm wondering did you
20 ask the cigarette companies if they had done
21 similar research?

22 A. No.

23 Q. You didn't? But I thought you were
24 curious. Why wouldn't you ask them?

25 A. Most companies closely guard their

1 research. It's kept proprietary. In order to
2 even get research on a national level of
3 consumers in various product categories, it's
4 a pretty expensive proposition.

5 Q. Well, I'm sure it is.

6 So but the bottom line here, it's
7 possible that the cigarette companies may have
8 conducted research on the same subject that you
9 conducted research and have reached an entirely
10 different conclusion; true? Isn't that true?

11 A. Absolutely. Absolutely. Because
12 I have no idea what focus, at what time they
13 would be doing research on and what objectives
14 they have. But my interest is the social
15 science literature --

16 Q. Right.

17 A. -- and consumer decision-making and
18 as it pertains to this and many other product
19 categories.

20 Q. Right.

21 Well, are you aware that there have
22 been a whole lot of documents that have been
23 released to the public over the past five or
24 six years regarding this particular issue?

25 A. Sure.

1 Q. Have you read any of those
2 documents?

3 A. Some have been presented to me in
4 depositions --

5 Q. Well, --

6 A. -- prior depositions.

7 Q. Right.

8 Only in -- So I guess it's never
9 been the case where the people that have hired
10 you have shown you these documents?

11 A. No, it's been in regard -- in
12 relation to depositions in cases.

13 Q. Okay. So the only time you've
14 seen these internal company documents that may
15 relate to these marketing issues is when the
16 plaintiff lawyer showed it to you in a
17 deposition; right?

18 A. Or it was provided as reliance
19 materials, yes.

20 Q. By some plaintiff expert?

21 A. Yes.

22 Q. Okay. But never since you've been
23 working for tobacco have they ever supplied you
24 with some of their documents which are in the
25 -- on their Internet sites, for example, that

1 relate to this issue?

2 Now, wait. You don't know what the
3 issue is anymore; right? You forgot?

4 A. No, I didn't forget the issue.

5 Q. Okay. Good. Well, you looked at
6 me like you forgot.

7 A. I want to be -- Well, since I have
8 been asked to testify as an expert by the
9 tobacco companies and their lawyers, no, I
10 haven't gone out and conducted research on
11 programs that the tobacco companies have
12 conducted. And I didn't do that prior to --

13 Q. Right.

14 A. -- having been asked to testify as
15 an expert.

16 Q. Right.

17 Well, if there were -- But you've
18 already told me that you're interested?

19 A. Well, I mean, it's an interesting
20 thing. But what I've seen is mildly
21 interesting. It -- It's nothing remarkable.
22 Or unusual.

23 Q. Nothing remarkable or unusual.

24 Okay. That is whatever it is that
25 you've seen?

1 A. Right.

2 Q. Okay. I see. I see.

3 How long -- When were you first
4 contacted by tobacco to work for them; do you
5 remember?

6 A. In the early nineties, I was
7 contacted by Jan Johnson and Allen Purvis.

8 Q. And they contacted you and asked
9 you to do what?

10 A. To come and speak to them, see if I
11 would meet with them to look at some documents,
12 some deposition or something to see what I
13 thought of it.

14 Q. Right.

15 And did you conduct some research
16 for them?

17 A. No.

18 Q. No. And by that, I guess you mean
19 to say they didn't pay for it?

20 MR. LONG:

21 Object to the form.

22 EXAMINATION BY MR. BRUNO:

23 Q. I mean you answered the question
24 without asking me what I meant, so --

25 A. Well, I didn't conduct research for

1 them.

2 Q. Okay.

3 A. They provided some materials they
4 asked me to review.

5 Q. Okay. But you provided them with
6 copies of your research?

7 A. I may have. I don't know.

8 Q. Okay. Well, would it have been
9 unusual for you to provide them with a copy of
10 a manuscript before it had been peer reviewed?

11 A. Not necessarily because -- Well,
12 peer review occurs in a different, a couple of
13 different levels. I'm not sure I would have
14 given -- I may have given a working document to
15 someone, but --

16 Q. Yes. Why would you have done that?

17 A. How would I have done what?

18 Q. Why? Why would you give a copy of
19 a manuscript to the lawyers for tobacco before
20 it had been accepted for publication? What
21 would be your goal?

22 A. If somebody did that and if it were
23 not peer reviewed, if it were not published,
24 you know, there are a lot of stages you can
25 go through with peer review. Some are peer

1 reviewed for conferences, some get peer
2 reviewed by journals.

3 Q. Okay.

4 A. And if you were to present
5 something, if I -- it was because people were
6 interested in it or expressed an interest. The
7 only reason I would give people my papers is if
8 they expressed interest.

9 Q. Well, I guess that doesn't really
10 answer the question. I'm asking you why you
11 would have submitted it to the tobacco lawyers
12 before it had been peer reviewed?

13 A. I'm not sure that I did that. If
14 that's what you're implying. And --

15 Q. You wouldn't do it?

16 A. Oh, I might.

17 Q. Well, okay. Hello. If you might
18 have, why would you have?

19 A. Well, you keep suggesting -- I
20 mean, I don't want to answer some question
21 about something I have done if I haven't done
22 it. And if you'd rather be straightforward and
23 ask me what you want to know --

24 Q. Actually, what I'm rather more
25 interested in is learning your approach to the

1 whole issue. I mean, if it's -- I don't know
2 that it is inappropriate or appropriate to send
3 manuscripts to anybody before peer review. It
4 may not be. I have no idea. I'm trying to
5 find that out.

6 A. If someone expresses an interest in
7 your work, when you get it into a form that is
8 close enough to completion to let them see it,
9 that it doesn't embarrass you, then you can
10 send it.

11 Q. Sure.

12 Okay. And tobacco was very
13 interested in your work; weren't they? They
14 weren't? You just told me that the reason why
15 you would submit a manuscript if someone was
16 interested in your work. So I would have to
17 assume that if you would submit the manuscript,
18 that they had obviously indicated some interest
19 in your work?

20 A. You didn't say that. You said
21 "very interested." And I don't know if they
22 were mildly interested --

23 Q. Oh, the "very" got to you?

24 A. Well, yeah.

25 Q. Or somewhat interested?

1 A. It's an important point.
2 Q. It's a big difference?
3 A. Yes.
4 Q. It's a degree thing here?
5 A. Yes.
6 Q. Okay. All right. Let's see now.
7 So if they're interested in your
8 report -- Let's put it to you this way. If you
9 sent them a copy of your manuscript before it
10 was published, that would sort of be proof that
11 they were interested in your work?
12 A. Not really.
13 Q. It's not?
14 A. No.
15 Q. So why would you send it?
16 A. If you send a manuscript at any
17 point, it might suggest -- Well, to me, I mean,
18 I wouldn't have sent it unless somebody were
19 interested or I thought they were interested.
20 Q. Well, let's see. If it was
21 prepublication, they wouldn't know about it;
22 right?
23 A. Not necessarily.
24 Q. The person?
25 A. No, that's not true.

1 Q. Well, how would they know about it?

2 A. Many times before something ends up
3 in print in a refereed journal, it is presented
4 at a national conference. That is peer
5 reviewed as well. But it's not necessarily
6 printed when it's presented. Or even when it's
7 submitted for peer review in that final form.

8 Q. All right. So if you had given the
9 paper in some way, that's one way they would
10 have learned about it?

11 A. Right.

12 Q. But if you hadn't given the paper,
13 the only other way they would have learned
14 about it is if you would tell them about it?

15 A. Or somebody else would have.

16 Q. I see. All right. Well, take a
17 look at this letter. Which one of these is --
18 There's a thousand numbers on this stupid
19 thing. Which one's the number? Is that the
20 Bates number?

21 MR. PRESTON:

22 I don't know. That's off the
23 Internet.

24 MR. BRUNO:

25 All right. We'll look at it and

1 then you can figure out a way to identify
2 it.

3 MR. LONG:

4 Are you going to mark this?

5 MR. BRUNO:

6 If you want. I don't see any need
7 to. I just -- We've got to figure out a
8 way to identify it.

9 MR. LONG:

10 Okay.

11 MR. BRUNO:

12 Is that number a way to identify it?

13 No?

14 MR. LONG:

15 I don't know. I'm not a numbers

16 guy.

17 MR. BRUNO:

18 Okay. Well, then, maybe we better
19 attach it so we don't get screwed up.

20 EXAMINATION BY MR. BRUNO:

21 Q. Anyway, are you familiar with that
22 letter?

23 A. (Witness reviews document.) Yes.

24 Q. Okay. What does it regard?

25 A. This is regarding a submission that

1 I sent to the American Academy of Advertising
2 for possible presentation at the conference in
3 the spring which I sent to Mr. Stephen
4 Kaczynski at Jones, Day.

5 Q. Okay. So it was before it was
6 presented?

7 A. It was after it was in final form
8 and had been submitted to the academy.

9 Q. I'll ask the question one more
10 time. It was before you presented the paper?
11 "Yes" or "No"?

12 A. It was prior to my presenting the
13 paper, sure, because I had just submitted it.

14 Q. Okay.

15 A. Well, wait. I shouldn't even say
16 that because it may have been presented by that
17 time, too. Just because it's not mentioned
18 here doesn't mean it wasn't presented. So I'm
19 not sure.

20 Q. You're not sure?

21 A. No.

22 Q. So why did you send it?

23 A. Why? Because I thought he
24 expressed an interest in my work.

25 Q. Well, you knew they'd like what you

1 had to say, too; didn't you?

2 MR. LONG:

3 Object to the form.

4 A. Not necessarily. I don't know what
5 they like or dislike.

6 EXAMINATION BY MR. BRUNO:

7 Q. You didn't know.

8 Okay. All right. Well, do you
9 often send manuscripts of your work to lawyers?
10 Does that happen pretty often in your work?

11 A. No. Only if they request it.

12 Q. All right. Well, anybody ever, any
13 lawyer ever request your -- Well, let's back
14 up. Did this lawyer request this?

15 A. Not specifically. Just if there
16 is --

17 Q. Okay.

18 A. He expressed an interest in the
19 subject. I'm not sure he expressed an interest
20 in that paper.

21 Q. Well, what subject did he express
22 an interest in?

23 A. The topic of advertising and impact
24 of advertising in the tobacco industry.

25 Q. Okay. Advertising and the impact

1 of advertising in tobacco. And that's it?

2 A. Well, I'm not -- You know, this
3 was a long time ago. I don't really remember
4 specifically what the conversation was. But,
5 in general terms, I had an idea he was
6 interested in research.

7 Q. Okay.

8 A. There wasn't a lot that was out at
9 the time.

10 Q. Okay. Can you recall having sent
11 your manuscripts to any other lawyer?

12 A. I don't -- I don't recall, but I
13 could have.

14 Q. All right. Any lawyer not
15 associated with tobacco?

16 A. Not -- Not that I recall, no.

17 Q. Yes.

18 A. I mean, I could have. I have
19 received a lot of requests for that and other
20 articles and --

21 Q. From tobacco?

22 A. I don't know. I mean, a lot of
23 requests come in on postcards asking if I would
24 please send copies of my work to such-and-such,
25 and I do it.

1 Q. Was this -- Do you recall whether
2 or not he asked you for this or you just
3 voluntarily sent this? Do you have a
4 recollection?

5 A. I don't recall being asked
6 specifically for that.

7 Q. Okay. Let's just talk about those
8 instances where you felt compelled just to send
9 stuff to lawyers, okay? Can you recall an
10 instance where you sent anything to lawyers
11 that weren't tobacco lawyers?

12 MR. LONG:

13 Object to the form.

14 A. I think I told you that. I don't
15 know whether I have sent things to lawyers
16 because when the requests come in, people
17 don't always identify their titles and their
18 positions.

19 EXAMINATION BY MR. BRUNO:

20 Q. Well, now, stop. You just said no
21 requests. You said that you gave this without
22 requests.

23 A. Well, I --

24 Q. So let's limit it to that.

25 A. Okay.

1 Q. Can we do that?

2 A. Let's say that I didn't get a
3 formal request. I didn't get a phone call
4 asking for this, I didn't get a postcard from
5 him asking for this.

6 Q. All right.

7 A. However, I had met the gentleman
8 and he had expressed an interest in the work
9 and he may have asked for a copy of it when it
10 was finished.

11 Q. All right. So you just remembered
12 his name and address, and that's how you knew
13 to send it to him?

14 A. Normally, I keep --

15 Q. I mean, this sounds a little
16 strange.

17 A. Normally, I keep business cards and
18 notes.

19 Q. Okay. So you think maybe what
20 happened was you kept this guy's business card
21 and when this issue came up, you thought to
22 yourself, "I'll bet he'd like a copy of my
23 manuscript." And so you sent it to him; right?
24 That's what happened?

25 A. When what issue came up?

1 Q. This one.

2 A. What issue came up?

3 Q. The issue of, "Well, maybe I ought
4 to send this to this fellow, Mr. Kaczynski." I
5 mean, I'm just trying to figure out how this
6 all went down. I mean, you have a bunch of --
7 a stack of business cards in your desk drawer?

8 A. No, I met Mr. Kaczynski.

9 Q. Okay. When?

10 A. After I met Jan Johnson and Allen

11 Purvis.

12 Q. Okay. And you knew you'd be
13 working for tobacco?

14 A. No, that's not true.

15 Q. Okay. So then this was just a
16 random encounter, so he's one of the many folks
17 you had met, these people; right?

18 MR. LONG:

19 Object to the form.

20 A. No. I had begun a study and I
21 wasn't finished, and he had expressed an
22 interest in that topic. And so when I
23 finished, I sent him a copy of that study.

24 EXAMINATION BY MR. BRUNO:

25 Q. And has that occurred many times in

1 your career, that you've met people who have
2 expressed an interest in your work; and when
3 you completed but not submitted the paper, you
4 sent it out?

5 A. No, that was submitted.

6 Q. Yes.

7 A. That had been submitted. It was
8 complete.

9 Q. All right. Has it occurred often
10 in your career that you have voluntarily sent
11 copies of your manuscripts to individuals that
12 you have met who have expressed an interest in
13 your work?

14 A. Yes.

15 Q. Okay. How many times has that
16 happened?

17 A. Many times. I don't keep a record
18 of it.

19 Q. Okay. So is there some method
20 by which you keep track of these people who
21 express interest? Do you have some kind of
22 a notepad or a record or a journal entry?

23 A. No.

24 Q. All right. You just happened to
25 remember when you've completed a paper and

1 you've submitted it, it occurs to you that "Ah,
2 I remember so-and-so had an interest"? And so
3 you go search for the card or the address and
4 then you mail it to that person?

5 A. Yes.

6 Q. Is that what you do?

7 A. Yes.

8 Q. Okay. All right. And your
9 testimony is that this has happened many times
10 in your career?

11 A. Yeah. Over the course of the
12 years, yes.

13 Q. Okay. All right. Good.

14 All right. So bottom line, you
15 don't know anything about what the tobacco
16 companies did in the way of marketing research?
17 That's not part of what you're here to talk
18 about? We can save a little time.

19 MR. LONG:

20 Object to the form.

21 A. I -- Let's see the question. I
22 don't know anything about what the tobacco
23 companies did in the way of research? I've
24 seen papers that indicate research was done. I
25 have no idea what the research program looked

1 like or --

2 EXAMINATION BY MR. BRUNO:

3 Q. So you can answer the question.

4 If you don't know what it looked
5 like, then you don't really have any opinions
6 to offer about what the tobacco companies did
7 or didn't do with regard to marketing --

8 A. Right.

9 Q. -- right?

10 A. Right.

11 Q. All right.

12 A. With regard to -- That's not what
13 you said.

14 Q. With regard to marketing as to what
15 they did or did not do. You have some opinions
16 about what they did or did not do?

17 A. I'm here to talk about part of
18 marketing and what the tobacco companies have
19 done and what impact that it had on people
20 and --

21 Q. Let's stop right there. Stop,
22 stop.

23 A. And you switched terms in the
24 middle of your question.

25 Q. I didn't mean to. Wait, wait.

1 Let's back up. You said that the tobacco -- I
2 want to get this real clear here. All right.
3 "I am here to talk about marketing and what the
4 tobacco companies may have done." I want to
5 isolate that because I want to make sure -- be
6 crystal clear what we're talking about.

7 When you say "what the tobacco
8 companies might have done," what are you
9 talking about?

10 A. Finish the sentence. With regard
11 to advertising campaigns, promotional campaigns
12 in the way that they affected consumers.

13 Q. That's two different issues: It's
14 what they did and how it affected. You see,
15 I'm trying to figure out what --

16 A. Well, --

17 Q. I mean, I know the effect part.
18 That's clear. I want to know if you're going
19 to talk about what they might have done?

20 A. What they might have done --

21 Q. That's your quote. I'm reading it
22 here.

23 A. -- what they have done, what I have
24 seen in terms of ads, that's all, that's all a
25 part of -- I mean, I may refer to it, yes. But

1 what they did in terms of marketing research,
2 I'm not here to talk about that.

3 Q. Okay. Well, are you here to talk
4 about what they did in terms of public
5 relations, in terms of -- Let's use some of
6 your terms here. I wrote them all down. Are
7 you here to talk about what they did in terms
8 of advertising?

9 A. Well, if we're talking about ad
10 campaigns, certainly, I'm going to potentially
11 mention ad campaigns. That's something that
12 they've done.

13 Q. All right. Well, but are you
14 isolating a particular thing or are you talking
15 about all their campaigns? That's what, I
16 mean,

17 A. I would never talk about all their
18 campaigns. That's not, that's not within the
19 scope of --

20 Q. Well, I mean, maybe I'm a little
21 confused here. But the information that's out
22 there in the public mind, okay, doesn't come
23 from only one source; right?

24 A. The information that's out there
25 within the public mind about what?

1 Q. Cigarettes.

2 A. Or anything --

3 Q. Yes.

4 A. -- never comes from one source.

5 Q. Well, that's right.

6 So you can't isolate one marketing
7 campaign, can you?

8 A. If you want to do a case study,
9 you could isolate a marketing campaign. And,
10 remember, that now you're talking about a much
11 broader concept than we were talking about
12 before. A marketing campaign involves pricing
13 strategies and product features and product
14 development and distribution and availability
15 and wholesaling and retailing and logistics
16 and, also, promotion.

17 Q. Actually, I didn't say marketing
18 campaign; you did. I was talking about what we
19 talked about at the beginning, the publicity
20 campaign and the advertising campaign. And you
21 said that advertising campaigns have a lot of
22 components: Advertising, direct marketing,
23 sales promotion and personal selling.

24 Remember that?

25 A. Promotional mix elements.

1 Q. Promotional mix elements.

2 And all I want to know is whether
3 or not you're going to make any comments or
4 opinions about any of the publicity campaigns
5 that tobacco may have undertaken over the
6 years?

7 A. Some studies make reference to
8 that. To the extent that the studies make
9 reference to it and it's included, yes. But I
10 am not privy to the driving forces behind the
11 campaigns, and so I'm not talking about it from
12 that perspective.

13 Q. All right. Well, I guess what's
14 confusing me then is how can you talk about the
15 impact of something if you don't know what it
16 was that they did?

17 MR. LONG:

18 Object to the form.

19 EXAMINATION BY MR. BRUNO:

20 Q. Unless you look at it isolated.
21 I mean, if you look at a particular ad, Joe
22 Camel, I can look at that and nothing else,
23 is that what you're telling us that you did?

24 A. No. I have become very confused
25 about the way you're switching from marketing

1 research to talking about marketing to talking
2 about specific campaigns. If you have --

3 Q. Well, I'm not switching. I don't
4 know these terms; you do. And I've begged you
5 for help on these terms, but you keep changing
6 the terms on me --

7 A. Well, several questions --

8 Q. -- based upon what time of the day
9 it is. You know, I mean, if it's the
10 seventies, it's one term; and then recently,
11 it's a new term.

12 A. No.

13 Q. So let's be fair about this. I've
14 been trying to keep up and you've been switch-
15 ing it on me.

16 MR. LONG:

17 Object to the speech and move to
18 strike.

19 EXAMINATION BY MR. BRUNO:

20 Q. All I'm trying to do is see if we
21 can find some terms that we -- whose meanings
22 we can agree on so we can have an intelligent
23 conversation, okay?

24 A. I think that's a good idea.

25 Q. All right. Well, that's what I'd

1 like to do. And since you know more about this
2 than me, it's incumbent upon you to tell me
3 what terms to use.

4 So I'm trying to figure out when
5 you say you're going to testify upon what
6 impact something has had on the audience, okay,
7 I want to know if you're going to comment upon
8 what it was that was done to influence that
9 audience?

10 MR. LONG:

11 Object to the form.

12 EXAMINATION BY MR. BRUNO:

13 Q. And it's purposefully broad
14 because, as you pointed out to me, there's a
15 whole -- there's a giant mix of stuff you can
16 do, okay?

17 Are we clear on the question?

18 A. I will try to clarify my answer.

19 Q. All right. But are we clear on the
20 question?

21 A. Not totally.

22 Q. Do you understand what I'm asking
23 you?

24 A. Not completely, no.

25 Q. Well, then I'll redo it until we

1 get it right, okay?

2 A. Okay.

3 Q. All right. You're talking about
4 the effect of something on people, right, in
5 your report?

6 A. Which report are we talking about?

7 Q. The one that's in this case.

8 A. I'm talking about a lot of effects.
9 If you mean the expert report, it refers to a
10 lot of research. It refers to not one effect.

11 Q. Well, you say "...that tobacco
12 advertising and promotional activity play no
13 role..." I'm reading from your report, okay?
14 Describe for me all of the tobacco advertising
15 and promotional activity that you're talking
16 about, every bit of it.

17 A. Advertising and promotion --

18 Q. Be specific now. It's your turn to
19 be specific. I want specifics.

20 A. Advertising and promotion --

21 Q. That's general.

22 A. Well, this is the general -- We're
23 starting general and the specifics follow in
24 the report.

25 Q. Okay. I'm reading. Tell me what

1 you meant. This is your sentence, "...that
2 tobacco advertising and promotional activity
3 play no role...." Now, would you agree with
4 me that covers a lot of ground?

5 A. That does.

6 Q. Okay. How many years does it cover?
7 You're looking at me with a blank
8 all the time. I mean, is that hard to answer?

9 MR. LONG:

10 Object to the speech.

11 EXAMINATION BY MR. BRUNO:

12 I mean, this is your sentence.

13 MR. LONG:

14 Did you read the -- I'm confused.
15 Is that the whole sentence?

16 MR. BRUNO:

17 I'll read the whole sentence. I'll
18 read the whole report, if you want, okay?

19 MR. LONG:

20 No, I just want the sentence. You
21 keep saying the sentence.

22 EXAMINATION BY MR. BRUNO:

23 Q. Here's the sentence. Page 1,
24 Paragraph 3, "For the reasons summarized in
25 this report, it is my opinion, based upon my

1 experience in the field of advertising,
2 marketing and consumer behavior and my review
3 of the pertinent professional literature, that
4 tobacco advertising and promotional activity
5 play no role in the decision of individuals of
6 any age to use tobacco products," period, okay?

7 So that's the sentence. You wrote
8 the sentence?

9 A. Uh-huh (indicating affirmatively).

10 Q. You wrote this?

11 A. Yes.

12 Q. Okay. So one would assume that you
13 knew what you were saying when you wrote it;
14 right?

15 A. Yes.

16 Q. Now, you said "...that tobacco
17 advertising and promotional activity...."
18 So I want to know what that is. And I want
19 specifics.

20 A. All right.

21 Q. And then the last question that got
22 us off on this was over what period of time?
23 Maybe we'll do the time first.

24 A. It doesn't -- Time is irrelevant in
25 that statement.

1 Q. Why?

2 A. It is true whether it's last month,
3 this month.

4 Q. Did your research get conducted in
5 the thirties? The papers that you read, were
6 they written in the thirties?

7 A. I don't think so.

8 Q. You don't think so. But the
9 forties?

10 A. I've mentioned some of the research
11 from the forties. It's the opinion leadership
12 research.

13 Q. All right. Well, so the research
14 that you reviewed from the forties, would you
15 identify the research from the forties that
16 show that, in the forties, "...in the field of
17 advertising, marketing and consumer behavior
18 and my review of the pertinent professional
19 literature, that tobacco advertising and
20 promotional activity play no role in the
21 decision of individuals of any age to use
22 tobacco products"?

23 Identify for me the articles, the
24 scientific research that was done in the
25 forties on people who smoked in the forties

1 that it played no role.

2 A. I -- The research that was done in
3 the forties that I referred to earlier, which
4 we discussed regarding opinion leadership, does
5 not focus on the tobacco industry.

6 Q. All right. Fine.

7 Is there any literature that was
8 describing scientific study, scientific
9 inquiry, research or the like that was done
10 on people who were smoking in the forties that
11 would allow the statement to be made that
12 "...in the field of advertising, marketing and
13 consumer behavior and my review of the
14 pertinent professional literature, that tobacco
15 advertising and promotional activity, in the
16 forties, played no role in the decision of
17 individuals, in the forties, to use tobacco
18 products"?

19 MR. LONG:

20 Object to the form.

21 A. The body of literature that is
22 attached to this statement indicates that
23 the primary influencing factors on a person's
24 decision to begin smoking are personal in
25 nature: Parents, siblings, peers. Even when

1 those people have been receiving messages that
2 are mass mediated and coming from the tobacco
3 industry.

4 And there is no reason to believe
5 that there should be any difference regarding
6 those findings in the forties, the fifties, the
7 sixties, the seventies, the eighties. And I
8 don't believe I'm familiar with -- or I know
9 I'm not familiar with at this moment --
10 research specifically aimed at the tobacco
11 industry of that nature in the forties and the
12 fifties.

13 It's a process of human perception
14 that these studies are investigating. And
15 there's no reason to believe there would be a
16 difference.

17 EXAMINATION BY MR. BRUNO:

18 Q. Why can you say that?

19 A. Because --

20 Q. Based on what? What scientific
21 data? Where is it?

22 A. Based on a whole body of literature
23 from communication marketing and social
24 sciences that identifies the most important
25 influencing factors as personal.

1 Q. So you're telling me that that
2 could not possibly have been different in the
3 fifties than it was in the seventies?

4 A. I have no reason to think that it
5 is.

6 Q. Well, you have no reason to support
7 that it is not?

8 A. All of the research -- That wasn't
9 a question. I'm sorry.

10 Q. Well, why don't you identify for me
11 the research that specifically holds that your
12 research on the personal factors is applicable
13 to the decision to smoke of individuals in the
14 forties?

15 MR. LONG:

16 Object to the form.

17 EXAMINATION BY MR. BRUNO:

18 Q. Why don't you show me that
19 research?

20 A. If you really wanted to see all of
21 that research, it would take a very long time
22 to compile it because --

23 Q. Just give me one.

24 A. Some of the Katz and Lazarsfeld
25 studies in Public Opinion Quarterly in the

1 forties.

2 Q. And what do they say?

3 A. That this is the opinion leadership
4 issue.

5 Q. I'm sorry. Explain that. Tell me
6 what all that means.

7 A. Let's -- To summarize?

8 Q. Yes.

9 A. The strongest influencing factors
10 on a person's decision to purchase is word-of-
11 mouth communication. Time and again, studies
12 have identified that as the most important
13 influencing factor.

14 Q. So there's really no need to
15 advertise anything; right?

16 MR. LONG:

17 Object to the form.

18 A. Who?

19 EXAMINATION BY MR. BRUNO:

20 Q. No?

21 A. Who? Advertise what?

22 Q. Anything.

23 A. What are your objectives?

24 Q. Well, if the strongest is word of
25 mouth, then what's the point of advertising?

1 A. Well, some people believe that,
2 some people don't. Some people have strictly
3 personal selling campaigns. And even that is
4 not especially word of mouth from a non-
5 commercial source; it's from a commercial
6 source. But some people do believe what you
7 just said, it's not necessary to advertise.

8 Q. All right. Well, so there's
9 something wrong with this picture, I suppose,
10 because there's a whole lot of people spending
11 a whole lot of money on advertising; right?

12 A. Correct.

13 MR. LONG:

14 Object to the form.

15 EXAMINATION BY MR. BRUNO:

16 Q. Isn't that true?

17 A. Yes, there's a lot of money spent
18 on advertising.

19 Q. A lot of money spent on
20 advertising. And your testimony is that the
21 evidence is crystal clear that the strongest
22 basis for product choice is word of mouth?

23 MR. LONG:

24 Object to the form of the question.

25 A. I said the decision to purchase is

1 influenced most by word-of-mouth communication.
2 And the specific research that's done regarding
3 decisions to smoke is no different.

4 EXAMINATION BY MR. BRUNO:

5 Q. Okay. So let's talk about the
6 strongest -- The decision that influences most
7 is by word of mouth. Okay. So if that's true,
8 you agree with me there's no logical basis to
9 spend all this money on advertising?

10 MR. LONG:

11 Object to the form.

12 EXAMINATION BY MR. BRUNO:

13 Q. The only way to get people to buy
14 products is to go talk to them one-to-one.
15 That's word of mouth.

16 MR. LONG:

17 Same objection.

18 EXAMINATION BY MR. BRUNO:

19 Q. Isn't that true?

20 A. No.

21 Q. Why not?

22 A. I didn't agree with you.

23 Q. Well, why not? If the strongest
24 influence is word of mouth, then why not use
25 word of mouth?

1 A. Advertising can meet other
2 objectives in the decision-making process.

3 Q. And what are those other
4 objectives?

5 A. There could be many different
6 objectives. Some of them might be to increase
7 awareness of your brand, could be to give
8 people information about your brand and how you
9 differentiate that brand from competing brands,
10 can give you information about where it's
11 available, what the price is.

12 Q. Right. And it could influence --
13 and you tell me -- it cannot, absolutely cannot
14 influence a person's decision to smoke?

15 A. There's no evidence to suggest that
16 it does, no.

17 Q. No evidence?

18 A. (Witness shakes head negatively.)

19 Q. Well, what evidence is there to
20 suggest that it influences awareness as a
21 brand?

22 A. A lot of studies are done in
23 advertising to determine exactly that.

24 Q. Okay. So in the context of the
25 cigarette industry, what scientific data is

1 there that demonstrates that advertising
2 influences or increases the awareness of brand?
3 In the cigarette industry now, okay?

4 A. Right.

5 We could point to the study
6 referred to in that paper by Zinser would be
one.

7 Q. That's one study by Zinser.

8 A. Well, specifically regarding brand
9 choice
10

11 Q. You say that's the only reason why
12 tobacco companies advertise; right? So there
13 ought to be more than one study.

14 A. Well, --

15 MR. LONG:

16 Object to the form.

17 EXAMINATION BY MR. BRUNO:

18 Q. Isn't that true?

19 A. That there ought to be more than
20 one study? I'm sure there are.

21 Q. Okay.

22 A. I have one identified here as a
23 part of --

24 Q. You've got one identified.

25 A. -- as a part of many different

1 studies.

2 Q. All right. So but to clarify, your
3 testimony is that the reason why tobacco
4 companies advertise is to increase awareness of
5 brand and encourage brand switching; right?
6 That's your deal?

7 MR. LONG:

8 Object to the form.

9 A. I didn't say that.

10 EXAMINATION BY MR. BRUNO:

11 Q. You never said that in your report?

12 A. No.

13 Q. You've never testified to that,
14 either?

15 A. No.

16 Q. Okay. Well, what's the purpose for
17 the tobacco advertising that's done?

18 A. Tobacco advertising is done to
19 increase awareness of brands, distribute
20 information about brands, differentiate
21 brands. And because it's a mature market,
22 the advertising is not done only for brand
23 switching but also for brand loyalty, to
24 maintain users. It's a real important part
25 of it.

1 Q. Okay. All right. So to increase
2 brand identification. Okay. So what research
3 is there that says that that's true?

4 MR. LONG:

5 Object to the form.

6 A. Well, pick besides Zinser and --
7 anecdotal data.

8 EXAMINATION BY MR. BRUNO:

9 Q. Anecdotal data, what's that?

10 A. Anecdotal data is what comes up in
11 your depositions, for example.

12 Q. Okay.

13 From the plaintiffs in this case.

14 Q. Okay. Good.

15 All right. So I imagine there's
16 some research -- If I was an advertiser, tell
17 me if I'm wrong here, but I sure would want to
18 know if my advertising schemes were working;
19 wouldn't I?

20 A. Yeah. Yeah. And, in fact, if you
21 go through my report, I do have a number of
22 studies done of the market and how advertising
23 affects demand and how advertising affects
24 brand switching and brand loyalty. And there's
25 a whole section in there.

1 Q. Good. We can talk about that.

2 So let's talk first, though, about
3 what I asked you about, which is brand
4 identification.

5 A. Oh.

6 Q. Okay? That's where we were. We
7 hadn't changed yet.

8 I want to know, first of all,
9 whether or not the cigarette companies would
10 be interested in doing research to figure out
11 whether or not the advertising that they're
12 doing is, in fact, increasing brand
13 identification? Is that something you'd be
14 interested in doing?

15 A. I would like to point out that
16 brand identification is not something that I
17 said; it's something that you paraphrased that
18 I said a couple of questions back.

19 Q. All right. Well, let me write it
20 down and I'll do it slowly. What did you say?

21 A. What was the question? Would we
22 like to go back to that question and the
23 answer?

24 Q. Well, what did you just have in
25 mind when you said you didn't say what I said,

1 I said something different? You had to have
2 something in mind.

3 A. You said "brand identification,"
4 and I don't recall using that as a term.
5 That's something that you added as a paraphrase
6 of my response.

7 Q. No, I think you said "increased
8 brand identification." You didn't say that?

9 A. (Witness shakes head negatively.)

10 Q. "Yes" or "No"?

11 A. I don't think I said that.

12 Q. All right. Let's go through it one
13 more time then. Why do cigarette companies
14 advertise? And we'll write it down one word at
15 a time.

16 MR. LONG:

17 Object to the form.

18 MR. BRUNO:

19 Okay. Good.

20 EXAMINATION BY MR. BRUNO:

21 Q. Why do they advertise? Let's write
22 it down. One, the first one?

23 MR. LONG:

24 Object to the form.

25 A. The cigarette companies advertise as

1 do other industries --

2 EXAMINATION BY MR. BRUNO:

3 Q. I don't want to hear about other
4 industries, okay? The question is really
5 simple. Why do cigarette companies advertise?
6 I don't want to talk about other companies,
7 okay?

8 A. Fine.

9 Q. All right. Thank you.

10 A. Then in that case, please ask the
11 cigarette companies. Because I can only speak
12 about mature markets and what they do. And I
13 don't know the intentions and I haven't seen
14 any objectives of any cigarette companies'
15 campaigns, so the answer is I don't know.

16 Q. So you do not -- You're on the
17 record as saying you don't know what the
18 objectives are of the tobacco companies with
19 regard to their advertising campaigns; right?

20 A. Right.

21 Q. And you don't know what the
22 objectives are of the tobacco companies with
23 regard to their publicity campaigns; right?

24 A. Right.

25 Q. You don't know that?

1 A. Right.

2 Q. And you've not reviewed any
3 internal company memos or documents that would
4 help you understand that; right?

5 A. Right.

6 Q. Okay. All right. So you really
7 don't even know the breadth of the advertising
8 and marketing that the tobacco companies have
9 done, do you, over the past fifty years?

10 MR. LONG:

11 Object to the form.

12 A. I probably don't.

13 EXAMINATION BY MR. BRUNO:

14 Q. Okay. All right. What you've done
15 is you've conducted a study in when? In the
16 seventies?

17 A. I've conducted several studies.

18 Q. Okay.

19 A. I don't know which one you're
20 referring to.

21 Q. Which was your first one?

22 MR. LONG:

23 Are we just talking about smoking or
24 -- in your question?

25 MR. BRUNO:

1 We're just talking about smoking.

2 MR. LONG:

3 Okay.

4 MR. BRUNO:

5 Nothing else.

6 A. A study that I have conducted
7 regarding smoking?

8 EXAMINATION BY MR. BRUNO:

9 Q. Yes.

10 A. Okay. Probably you're referring to
11 the "YOUNG CHILDREN'S PERCEPTIONS" article that
12 appeared in the Journal of Advertising.

13 Q. Yes.

14 A. And at the American Academy of
15 Advertising conference.

16 Q. Okay. And the question was when?

17 A. Nineties.

18 Q. Nineties. All right. So what
19 research have you done about consumer behavior
20 relative to smoking that predates the nineties?

21 A. I've done a lot of secondary
22 research.

23 Q. All right. When was the first one
24 of this secondary research? Just timewise?
25 Seventies, eighties?

1 A. It could have been late eighties,
2 early nineties in connection with the primary
3 research I did in the early nineties.

4 Q. The primary research. So we're
5 still going back to the published article in
6 the nineties --

7 A. Right.

8 Q. -- about the children?

9 A. (Witness nods head affirmatively.)

10 Q. All right. That's the only one;
11 isn't it? That's the only real research study
12 that you have conducted with regard to consumer
13 behavior relative to smoking is that one study?

14 MR. LONG:

15 Object to the form.

16 A. With smoking as a topic, no, it's
17 not.

18 EXAMINATION BY MR. BRUNO:

19 Q. I'm sorry. I got confused between
20 the objection and the --

21 A. No, it is not the only study that
22 I've conducted that --

23 Q. That what?

24 A. -- relates to, relates specifically
25 to smoking --

1 Q. All right.

2 A. -- and cigarettes.

3 Q. All right. Well, tell me then
4 the other studies that you did that relate
5 specifically to consumer behavior --

6 A. Okay.

7 Q. -- as it specifically relates to
8 cigarettes.

9 A. All right. I did a study with
10 Michelle Wolf.

11 Q. When?

12 A. Mid nineties? I'm not sure.

13 Q. Okay. And what was that about?

14 A. We looked at the ways that parents
15 of young children use marketing communication,
16 use brand logos, and some of them cigarette
17 brand logos, to teach their children about the
18 dangers of smoking.

19 Q. Okay. Anything else?

20 A. Not with a focus or a mention of
21 cigarettes specifically or smoking.

22 Q. So we've got two studies; right?

23 A. Right.

24 Q. Okay. Just two. And the first one
25 dealt with kids. What age was it?

1 A. Three to eight.

2 Q. Three- to eight-year-olds. All
3 right. And the one with regard to the parents,
4 that also dealt with young children as well, I
5 think; did it not?

6 A. It was parents of young children.

7 Q. Parents but of young children?

8 A. Uh-huh (indicating affirmatively).

9 Q. You had to define that group in
10 some fashion, the "young children" part. What
11 was the "young children" part defined to be?

12 A. I don't remember exactly what age
13 group that was, if it was under 12 or if it was
14 limited to under 8. I'd have to check the
15 study. I don't remember.

16 Q. All right. And so have you done
17 any research at all with regard to the smoking
18 behavior of children over age 8?

19 A. I have done research but not
20 conducted data collection.

21 Q. Okay. What do you mean by "done
22 research"? You mean read papers?

23 A. Yes.

24 Q. Okay.

25 A. Literature reviews.

1 Q. Okay. But you've conducted no
2 studies yourself; right?

3 A. Right.

4 MR. LONG:

5 Object to the form.

6 THE WITNESS:

7 Not that I recall.

8 EXAMINATION BY MR. BRUNO:

9 Q. I'm sorry?

10 A. Not that I recall.

11 Q. That you recall, none, zero?

12 A. No, I don't remember doing that,
13 no.

14 Q. Okay. Now, the second sentence
15 here in this same paragraph, it says, "I will
16 discuss, first, generally accepted principles
17 of advertising and promotion...." So what
18 generally accepted principles of advertising
19 and promotion are you going to share with the
20 jury?

21 A. Well, should I use my report as a
22 guide or --

23 Q. I don't know. If you want to, you
24 can. You don't have to.

25 MR. LONG:

1 If you want to use your report, you
2 can.

3 MR. BRUNO:

4 Yes, you're more than --

5 THE WITNESS:

6 I don't want to miss anything. But
7 I, you know, I'm sure it's in here. So if

8 I --
9 MR. LONG:

10 You want to look at a copy?

11 MR. BRUNO:

12 Do you want a copy?

13 THE WITNESS:

14 I don't have to, but --

15 MR. BRUNO:

16 It's your call.

17 MR. LONG:

18 Suit yourself.

19 MR. BRUNO:

20 Suit yourself.

21 THE WITNESS:

22 Okay. We're coming right from
23 there, so I might as well if you have
24 a copy.

25 MR. LONG:

1 Okay.

2 MR. BRUNO:

3 Look, this is clean, I think, huh?
4 Is that mine?

5 MR. PRESTON:

6 That's yours.

7 MR. BRUNO:

8 That's clean.

9 MR. LONG:

10 Let's take about five.

11 THE WITNESS:

12 Great. What time is it?

13 THE VIDEOGRAPHER:

14 We're going off the record at 10:53.

15 (Whereupon a brief recess was taken
16 at this time from 10:53 o'clock a.m. to
17 11:05 o'clock a.m.)

18 THE VIDEOGRAPHER:

19 We are back on the record at 11:05.

20 EXAMINATION BY MR. BRUNO:

21 Q. Okay. We were -- You were going to
22 tell me about the generally accepted principles
23 of advertising and promotion that you were
24 going to talk about.

25 A. Okay.

1 Q. And you can just list them, if you
2 want. That will make it easier for me.

3 A. All right. I can use this as a
4 guide since this includes it. Would you like
5 a summary of the topics first that I discuss or
6 do you want me to just --

7 Q. No, I don't want the topics because
8 that would not be the generally accepted
9 principles. I want the -- I guess you would
10 probably start with a glossary of terms that
11 you're going to talk about.

12 A. No, not --

13 Q. For example, something like mature
14 product market, you're going to talk about
15 that; aren't you?

16 A. I'll mention that, yes.

17 Q. But that's a -- But that's not
18 specific. That's one of these generally
19 accepted principles of advertising and
20 promotion; right?

21 A. Right.

22 Q. Okay. So you don't need to be
23 specific to talk about that; do you?

24 A. Well, --

25 Q. Or maybe you do. Maybe you need to

1 be specific.

2 A. In talking about it, I would like
3 to be specific.

4 Q. You can't describe it in any other
5 way other than being specific and using
6 specific examples? That's what you're telling
us. That's okay. I mean, everybody's got
their own way of talking.

8 MR. LONG:

10 Object to the form.

11 A. No, that's not what I said.

12 EXAMINATION BY MR. BRUNO:

13 Q. All right. Well, just tell me
14 whether or not you can explain to a jury what
15 a mature product market is?

16 A. Yes.

17 Q. Okay. Thank you.

18 And how about brand loyalty?

19 A. Yes.

20 Q. That's one of these things. All
21 right. Well, that's what I want to know. Just
22 give me the generally accepted principles that
23 you're going to talk about.

24 A. Oh, okay. We'll talk about the
25 consumer decision-making process.

1

Q. Good.

2

A. We'll talk about --

3

Q. Life cycle?

4

A. -- product life cycle.

5

Q. Okay. Pioneer promotion?

6

A. Fine.

7

Q. What is that?

8

A. It's promotion that occurs for a new product.

10

Q. There have been lots of new cigarette products that have been put on to the market in the past 40 or 50 years; haven't they?

13

14

A. There have been innovations, not necessarily totally new.

15

16

Q. Like menthol cigarettes, that's an innovation?

17

18

A. It's --

19

Q. I just want to know what you mean.

20

A. It's an adaptation of an existing form, yeah.

21

22

Q. All right. Well, is it an innovation or a new product?

23

24

A. It's not a new product; it's a new product feature.

25

1 Q. A new product is like a DVD --

2 A. Right.

3 Q. -- right?

4 A. Right.

5 Q. Okay. All right. So there are no
6 cigarettes that are new products?

7 A. Right.

8 Q. Okay. Not even the ones that with
9 no nicotine in them?

10 A. It's just an adaptation of an
11 existing product.

12 Q. Adaptation. Okay. Good.

13 All right. And then primary
14 demand?

15 A. Demand for a product category.

16 Q. No, no, no. "Primary demand," Page
17 2. It's in italics. I take that to be, when
18 you use italics, that that's a term of art. So
19 you're going to talk about primary demand?

20 MR. LONG:

21 Object to the form.

22 A. Yes. I just --

23 EXAMINATION BY MR. BRUNO:

24 Q. Okay. Yes. But you gave it some
25 other name.

1 A. No.

2 Q. I want to use the glossary here,
3 okay? I want to be clear --

4 A. I thought you were asking for a
5 definition, I'm sorry.

6 Q. Yes. Okay. I want to make sure
7 we've got the words. Because we're having
8 trouble with the words in the glossary, so
9 we're getting our glossary down.

10 A. Okay.

11 Q. Target market?

12 A. Yes. Okay.

13 Q. Brand differentiation?

14 A. Yes.

15 Q. Novelty?

16 A. Yes.

17 Q. Aggregate demand --

18 A. Yes.

19 Q. -- right?

20 Declining consumer product markets?

21 A. Yes.

22 Q. Okay. Brand switching?

23 A. Yes.

24 Q. Okay. Selective demand?

25 A. Yes.

1 Q. Reallocation of demand?

2 A. Yes.

3 Q. Okay. In Paragraph 4, you say "It
4 is well-established in the field of marketing
5 communications that in a mature product market,
6 the effect of advertising and promotion is
7 primarily to maintain brand loyalty and to
8 encourage consumers of competing brands to
9 switch to the advertised brands...."

10 Okay? Do you see that?

11 A. Yes.

12 Q. Page 2?

13 A. Yes.

14 Q. Do you know if the cigarette
15 companies agree with you on that point?

16 A. I haven't questioned cigarette
17 companies.

18 Q. You haven't?

19 Well, if they had a different
20 opinion, would that affect your opinion? I
21 mean, --

22 A. It wouldn't affect my opinion.

23 Q. It wouldn't affect your opinion
24 at all. Okay. But you do recognize that you
25 don't know what the intent of the cigarette

1 manufacturers were, that they could have a
2 different opinion; right?

3 A. You're now talking about intent?

4 Q. Of course, I'm talking about
5 intent. They could have a different opinion?

6 A. We weren't talking about intent, I
7 don't. I don't think we were talking about
8 intent; were we?

9 Q. Well, the advertiser or the sponsor
10 has to have some intent; otherwise, they can't
11 possibly even design their programs? Is that
12 fair?

13 A. You should have objectives.

14 Q. I mean, yes, I mean, you should
15 have them. I mean, isn't it mandatory that you
16 have objectives? I mean, otherwise, you're
17 sort of wasting your money?

18 A. It's real important to have
19 objectives.

20 Q. Would it be reckless not to have
21 objectives?

22 A. Yes.

23 Q. Okay. All right. So, clearly, the
24 cigarette companies had objectives?

25 A. (Witness nods head affirmatively.)

1 Q. Right?

2 A. In advertising and promoting,
3 right.

4 Q. Right.

5 And you've already told us today
6 that you don't know what the cigarette
7 companies' objectives were or are today; isn't
8 that true?

9 A. I want to qualify that. I haven't
10 communicated with, seen any materials that
11 indicate what any advertising campaign had as
12 its objectives.

13 Q. Okay.

14 A. It's true I haven't investigated in
15 that way the intent.

16 Q. Okay.

17 A. But, on the other hand, by looking
18 at the campaigns, you can glean something of
19 the effect of the campaign. And you can also
20 learn something about, say, which targets are
21 reached or which are being sought after.

22 Q. Do you know if the cigarette
23 manufacturers regard their market as a mature
24 market?

25 A. I would assume that they do. It is

1 a mature market.

2 Q. But you don't know that one way or
3 the other; do you?

4 A. I think the cigarette manufacturers
5 agree that it's a mature market.

6 Q. How do you know if you haven't
7 asked them?

8 A. Well, in a lot of things that I've
9 read.

10 Q. Okay. Well, let me see if I
11 understand what this mature market business
12 means. Does it mean you don't need to grow any
13 new business?

14 A. No, it never means that.

15 Q. It never means that.
16 Well, how do you grow new business
17 in a mature market?

18 A. Well, you attempt to, besides
19 maintaining your loyal brand users --

20 Q. We didn't talk about that. We said
21 grow business.

22 A. Right. I said besides maintaining.
23 Because if you don't attend to that, you will
24 lose people from your brand --

25 Q. Well, that's fine.

1 A. -- and it will be a net deficit.

2 Q. Let's leave that out.

3 I want you to be clear about the
4 question. The question is I want to attract
5 new smokers, okay? That's what I mean when I
6 ask you about growing the business, okay? Are
7 you with me on that so far? "Yes" or "No"?
8 I'll ask it again.

9 A. You are a cigarette company.

10 Q. Yes.

11 A. And you would like to expand your
12 brand's market share?

13 Q. No. I want to sell more
14 cigarettes.

15 A. So you would like to expand your
16 brand's market?

17 Q. I don't know. You're using these
18 terms. I want more people to smoke my
19 cigarettes.

20 A. Okay. So you are a -- Okay. So
21 let's go with that.

22 Q. All right. Well, people get old
23 and die; don't they?

24 A. People do die for a lot of reasons.

25 Q. They do, yes. I mean, --

1 A. Some because they're old --

2 Q. I mean, this mature market
3 eventually dies?

4 A. -- some because they get hit by
5 cars.

6 Q. Right?

7 A. Yes.

8 Q. So you, obviously, have to attract
9 people who have not ever used your product
10 before in some fashion?

11 A. No. Or convince them --

12 Q. To use your product?

13 A. -- that your brand is better than
14 the one that they're using.

15 Q. Well, but if they're not using at
16 all, how do you get them to use your brand? Or
17 you don't care?

18 MR. LONG:

19 Object to the form.

20 A. If they're not in the market for
21 your product category, you're not going to get
22 them into your product category.

23 EXAMINATION BY MR. BRUNO:

24 Q. But, geez, well, you know, what
25 comes first? The chicken or the egg? I mean,

1 they have to start smoking at some point;
2 right?

3 MR. LONG:

4 Object to the form.

5 EXAMINATION BY MR. BRUNO:

6 Q. Don't they?

7 A. People who smoke have to start at
8 some point, yes.

9 Q. Yes. Okay. So I want to attract
10 people who have never smoked before. That's
11 who I want to attract. I do some marketing
12 research, right, and I figure out how to do
13 that; right?

14 MR. LONG:

15 Object to the form.

16 A. Marketing research indicates that
17 mass-mediated information is not going to do
18 that.

19 EXAMINATION BY MR. BRUNO:

20 Q. Mass media.

21 But that's just one of a mix.
22 There's a whole lot of stuff out there. You've
23 already told me that. That's just one; right?

24 A. No, it's not right.

25 Q. It's not right?

1 A. No, it's not right.

2 Q. So you're telling me that the
3 literature says that all of the mix of all
4 the advertising doesn't have any impact on
5 initiating new smokers?

6 A. That's right.

7 Q. Okay. And you back that up with
8 what studies again now?

9 A. I have a whole series of studies
10 here.

11 Q. And those don't deal with
12 cigarettes; do they? Not all of them?

13 A. Most of them do, yes.

14 Q. All right. Let me ask you this.

15 A. Maybe all of them.

16 Q. The actual -- The actual numbers
17 of smokers in the marketplace, and the numbers
18 of individuals who start smoking, and the
19 numbers of individuals who switch brands, is
20 that relevant at all to you?

21 MR. LONG:

22 Object to the form.

23 A. Relevant to me?

24 EXAMINATION BY MR. BRUNO:

25 Q. Yes, as an expert.

1 In other words, if, in fact, there
2 are "X" number of individuals who switch brands
3 or there are "X" number of individuals who
4 don't switch brands, let's say that, let's just
5 say hypothetically that the evidence says that
6 nobody switches brands, would that be of
7 interest to you?

8 MR. LONG:

9 Object to the form.

10 A. The evidence is that people do
11 switch brands.

12 EXAMINATION BY MR. BRUNO:

13 Q. I understand that.

14 So that you are interested in such
15 statistical data? No, you're not? Yes, you
16 are?

17 A. I'm interested in statistical data,
18 yes.

19 Q. All right. You are.

20 All right. So how many -- how many
21 smokers over the age of 21 initiated smoking
22 after they were 21?

23 A. It depends on what you mean by
24 "initiate." There are a lot of different
25 definitions of "initiation" --

1 Q. Okay.

2 A. -- and beginning and starting and
3 smoking.

4 Q. Let's take all three. If you want
5 to cut it up, we'll do that. "Beginning" and
6 you used "starting."

7 A. Well, --

8 Q. These are your words, okay?

9 A. What I'm --

10 MR. LONG:

11 Object to the form.

12 EXAMINATION BY MR. BRUNO:

13 Q. I mean, if you want to answer the
14 question the way you answer it, you're going to
15 be stuck with it.

16 So you said there are three ways --

17 MR. LONG:

18 Object to the speech. Move to
19 strike.

20 MR. BRUNO:

21 You can strike it, do whatever you
22 want, all right?

23 MR. LONG:

24 Okay. Fine.

25 EXAMINATION BY MR. BRUNO:

1 Q. "Initiate" means to you a bunch of
2 different things. It means beginning, it means
3 starting. What else does it mean?

4 A. It depends on where you find it, in
5 which study. The study author usually
6 identifies what it means.

7 Q. Okay. Well, I wasn't talking about
8 a particular author. I was talking about these
9 general principles that you referred to, okay?
10 So you're telling me that there are no general
11 principles that refer to the point in time when
12 a person starts to use a product for a first
13 time? There's no general advertising principle
14 in the world that describes that; right?

15 MR. LONG:

16 Object to the form. You're talking
17 about all products or cigarettes now?

18 MR. BRUNO:

19 All products. Because now we're
20 back to the general advertising
21 principles.

22 EXAMINATION BY MR. BRUNO:

23 Q. Your testimony is that there's no
24 general advertising principle that describes
25 the first time somebody uses a product?

1 A. First-time user, first-time -- I
2 don't think there's a consistent term for it.

3 Q. All right. Well, let's pick one
4 that describes it and then we'll go from there.
5 Which one works for you?

6 A. It depends on the context. What do
7 you want to --

8 Q. What context?

9 A. What are you asking? What is the
10 point?

11 Q. The question was simple.
12 How many people who are smokers
13 started smoking, began smoking, initiated
14 smoking after they were 21 years of age?

15 A. I don't have the exact number. I
16 do not think it's a majority.

17 Q. It's a very tiny number; isn't it?

18 A. If you are telling me that, that
19 might be true. I don't know the number.

20 Q. Well, if you don't know it, just
21 tell me you don't know it, "I don't know it."

22 A. I don't know the number.

23 Q. You don't know it; do you?

24 A. No.

25 Q. Okay. Is it a relevant piece of

1 information?

2 MR. LONG:

3 Object to the form.

4 EXAMINATION BY MR. BRUNO:

5 Q. If it is, it is; if it's not, it's
6 not. This is not like a painful process. Is
7 it relevant to you in your opinions today?

8 MR. LONG:

9 Object to the form.

10 A. Relevant to me in my opinions?

11 EXAMINATION BY MR. BRUNO:

12 Q. In the context of your opinions in
13 your report, is it relevant for you to know how
14 many people who smoke started, initiated,
15 began, whatever works for you, after age 21?

16 MR. LONG:

17 Object to the form.

18 A. Not necessarily.

19 EXAMINATION BY MR. BRUNO:

20 Q. Not necessarily.

21 Okay. Is it important for you to
22 know the numbers of individuals over the age
23 of 21 who switch brands? Is that relevant?

24 A. I have information on the
25 percentages of people who switch during

1 campaigns. As far as specific numbers, I
2 don't have specific numbers for you now, no.

3 Q. The question was is it relevant?

4 A. Relevant to what?

5 Q. Your opinions.

6 A. It's not the central focus.

7 Q. That doesn't answer the question.

8 If it's not relevant, it's not.

9 If it's relevant to an opinion in your report,
10 then it would be relevant. Is it relevant to
11 any of the opinions in your report?

12 MR. LONG:

13 Object to the form.

14 A. It might be.

15 EXAMINATION BY MR. BRUNO:

16 Q. It might be.

17 A. (Witness nods head affirmatively.)

18 Q. Which opinion?

19 A. I don't know that yet.

20 Q. You don't know that yet. Okay.

21 All right.

22 A. We need to be --

23 Q. So it's not high on the hit parade;
24 is it?

25 MR. LONG:

1 Object to the form.

2 EXAMINATION BY MR. BRUNO:

3 Q. The number of individuals who
4 change brands?

5 A. That is not what you said before.

6 Q. I said brands -- Okay. Fine. You
7 know what? The good news is we've got this
8 nice little machine here which will allow me to
9 tell you exactly what I said.

10 Is it important for you to know the
11 numbers of individuals over the age of 21 who
12 switch brands?

13 A. You said is it relevant, is it
14 important? I said there are studies --

15 Q. No, you said there was confusion
16 about switching brands. That's what you said
17 I changed. You claim that I used something
18 different than switching brands. Now, are we
19 on the right page or not? We're talking about
20 brand switching.

21 A. All right.

22 Q. All right?

23 A. Yes.

24 Q. All right. So I didn't change
25 anything; did I?

1 A. Only the context.

2 Q. All right. How did I change the
3 context?

4 A. You asked me if it's important to
5 know the numbers, you asked me if the numbers
6 are relevant. The fact that they are brand
7 switching is relevant. I don't have the
8 specific figures. I have studies that report
9 the amount of brand switching that are
10 important and relevant. I don't know the
11 specific figures unless I go back through to
12 the final piece of data.

13 Q. All right. If the numbers reflect
14 a very small number of individuals who switch
15 brands, would that be relevant to your
16 opinions?

17 A. That is something that I would
18 consider.

19 Q. Okay.

20 A. It could be something that's part
21 of the body of literature that I've looked at
22 that are provided in the reliance materials.

23 Q. Okay. And, of course, you've had
24 no access to any cigarette company information
25 about brand switching, obviously?

1 MR. LONG:

2 Object to the form.

3 EXAMINATION BY MR. BRUNO:

4 Q. You said it was proprietary,
5 remember? Are you changing your opinion now?

6 A. Well, I'm trying to see if there is
7 some information that is -- I mean, there is
8 some information that is provided by the
9 cigarette companies; but the source of that for
10 me would be those to whom they provide it to,
11 like the FTC. So I'm going through my
12 inventory of information.

13 No, I haven't been given
14 information by cigarette companies regarding
15 specific brand switching.

16 Q. Okay. Now, in this mature market
17 business, your testimony is that -- and maybe I
18 misunderstood it -- but is there any interest
19 in getting people who have not used the product
20 to use the product?

21 MR. LONG:

22 Object to the form.

23 A. You're asking me again about the
24 interest of cigarette companies and what their
25 intentions are. And I do not know intentions

1 and advertising objectives for any brand.

2 EXAMINATION BY MR. BRUNO:

3 Q. Okay. All right. Well, in
4 generally accepted advertising principles,
5 when you have a mature market --

6 A. Yes.

7 Q. -- okay, does that mean that you're
8 not interested in getting nonusers into your
9 market?

10 A. When you have a mature market, are
11 you interested in getting nonusers into your
12 market? Your interest would lie in differen-
13 tiating yourself from competitors for people
14 who decide to get into the market.

15 Q. Okay. I guess I'm trying to
16 understand more about what you mean with a
17 mature market. A mature market means that
18 people are already in the marketplace --

19 A. No.

20 Q. -- right?

21 A. No.

22 Q. It doesn't?

23 A. No.

24 Q. What does it mean?

25 A. A mature market is one that has --

1 Let me make sure I do this right. A mature
2 market as opposed to a new product market is
3 one that has reached a stage where there are
4 many brands available, where some of the weaker
5 competitors have dropped out, where there is
6 saturation of consumers, and where the primary
7 focus is to maintain a presence in the market
8 by maintaining brand loyalty, by convincing
9 consumers of other brands that your product is
10 unique and preferable.

11 Q. All right. Well, in a mature
12 market, are minors in that market?

13 A. Well, it depends on the category.

14 Q. What do you mean by "category"?

15 A. Product category. Is this a
16 product that is for minors? Is it a product
17 that is for farmers??

18 Q. I don't care who it's for. I'm
19 talking about users.

20 A. Well, --

21 Q. Users.

22 A. -- is it for --

23 Q. I mean, are you telling me that you
24 don't have any information that people under 21
25 smoke?

1 MR. LONG:

2 Object to the form.

3 A. I don't think we're talking about
4 that at all. You're asking me about mature
5 markets; is that right?

6 EXAMINATION BY MR. BRUNO:

7 Q. Right. Yes. And you talked about
8 people who it's for. And I'm saying that it's
9 irrelevant who it's for. We're talking about
10 who actually uses the product.

11 A. And that depends on what category.

12 Q. Okay. The category of what?

13 A. Farm machinery, for example.

14 Q. Cigarettes. Okay.

15 A. Okay.

16 Q. In a mature market, are people
17 under 18 in the mature market?

18 A. Oh, I see what you're doing. No,
19 that's not how it works.

20 Q. Well, are they or are they not?

21 A. Maturity doesn't refer to --

22 Q. Oh, I understand that it doesn't.

23 A. -- the description of the
24 consumers.

25 Q. I realize that.

1 A. Okay.

2 Q. But are people under 18 part of the
3 mature market?

4 MR. LONG:

5 Object to the form.

6 A. The product market is a reference
7 to all of the companies with different brands
8 which are in this product category which has
9 been around a sufficient length of time for --
10 EXAMINATION BY MR. BRUNO:

11 Q. All right. So it has nothing to do
12 with who uses the product?

13 A. The definition of maturity? Right.

14 Q. Okay. It just has to do with the
15 fact that the companies have been there for
16 awhile?

17 A. Well, that the products have been
18 there and that the companies have been there a
19 sufficient amount of time for the weaker ones
20 to have dropped out of the market and for the
21 remaining ones to jockey for the consumers who
22 are in the market.

23 Q. Yes. Well, I'm just trying to
24 understand your sentence here because it just
25 -- it's curious to me. You said the primary

1 purpose of advertising and promotion in a
2 mature market is to maintain brand loyalty;
3 right?

4 A. Right.

5 Q. So I'm trying to figure out how do
6 you get young people getting into the market,
7 whatever their age, to start using a product?
8 Or maybe you don't care. Maybe because it's
9 a mature market they start using for other
10 reasons. How do you get them into the
11 marketplace --

12 MR. LONG:

13 Object to the form.

14 EXAMINATION BY MR. BRUNO:

15 Q. -- in a mature market? Forget
16 about cigarettes for a moment.

17 A. In a mature market, consumers will
18 learn about the products in the market from
19 personal experience before they will learn from
20 mass-mediated or nonpersonal communication.

21 Q. Okay. Because it's out there;
22 right?

23 A. It's there, right.

24 Q. So as I'm growing up, all right --

25 A. Right.

1 Q. -- in my youth, I see automobiles.
2 They're out there?

3 A. That's right.

4 Q. No one has to advertise to me to
5 get me to buy a car in the first place? It's
6 about which car I want to get; right?

7 A. Yes.

8 Q. Okay. All right. I'm just trying
9 to get a sense of what you're talking about
10 here.

11 A. That's right. Yes, that's right.

12 Q. So what I'm driving at is if, in
13 fact -- if, in fact, advertising is utilized to
14 initiate me, does that mean it's not a mature
15 market? Do you follow my question here?

16 MR. LONG:

17 Could you -- "Initiate me"?

18 MR. BRUNO:

19 Yes.

20 MR. LONG:

21 I didn't understand.

22 EXAMINATION BY MR. BRUNO:

23 Q. All right. Let's go back again.

24 When I was growing up, I see cars
25 all around the place, okay? I mean, people are

1 using cars, I know what they're for. I know
2 the real issue for me, as far as I understand
3 -- and it's true -- was which brand of car I
4 was going to buy. I mean, no one had to
5 advertise to me to get me to want to drive.

6 A. Right.

7 Q. Right?

8 A. Right.

9 Q. Okay. That's a mature market. No
10 question about it; right?

11 A. That's an example of a mature
12 market.

13 Q. An example.

14 A. A good one, yes.

15 Q. Now, my question is if, though --
16 if, though, there is evidence that the
17 advertising will persuade me to do or not do
18 or to use or not use a product, forget about
19 the fact that it's in the market, for example,
20 a cigarette, it's a little bit different in
21 that the person has to decide to use the
22 product or not use the product? It's not like
23 it's necessary to get to work, it's not a food,
24 it's not a means of transportation. So it's a
25 little bit different than a car; wouldn't you

1 agree?

2 MR. LONG:

3 Object to the form.

4 A. I wouldn't agree with what you said.

5 EXAMINATION BY MR. BRUNO:

6 Q. Okay. Why?

7 A. Because you started out if
8 advertising is used to persuade me to enter the
9 market, is that what you --

10 Q. Yes.

11 A. And I think we just said in a
12 mature product market, people will have
13 experience with the product and will get
14 information about the product --

15 Q. Right. Right.

16 A. -- from personal experience, from
17 friends and family, from what they see every
18 day.

19 Q. Right. And my --

20 MR. LONG:

21 Wait. Let --

22 A. And make a decision based on
23 that --

24 EXAMINATION BY MR. BRUNO:

25 Q. Right.

1 A. -- whether they are in that product
2 category or not.

3 Q. Yes. And my point is it's not a
4 mature market if, in fact, I am influenced by
5 advertising pieces to persuade me to use the
6 product for the first time; isn't that true?

7 A. I think that's true.

8 Q. Right.

9 A. I think the way you said that is
10 true.

11 Q. Yes. I mean, the point I'm making
12 is the definition of mature market is that it's
13 out there. I don't need to be persuaded to use
14 it, it's just a matter of what brand. But if,
15 in fact -- and this is in the abstract, I will
16 tell you that -- but if, in fact, I need to be
17 persuaded to use the product, then it's not a
18 mature market, the definition doesn't apply to
19 that particular product?

20 MR. LONG:

21 Object to the form.

22 A. Well, you're talking about if you
23 need to be persuaded and campaigns to persuade
24 you to enter the product category having an
25 impact on what you call a mature market, that

1 is not really how you would define the mature
2 market, by what people do about advertising.

3 EXAMINATION BY MR. BRUNO:

4 Q. Wait. Now you lost me. I didn't
5 talk about what people do about advertising,
6 about people's response to advertising. The
7 very definition of a mature market means that
8 I won't respond to advertising with regard to
9 initiation. That's the definition of mature
10 product market, as I understand what you're
11 talking about?

12 A. That's the kind of advertising in
13 the mature market, right. It is not for
14 convincing people to enter the product
15 category.

16 Q. All right.

17 A. That's a decision they make based
18 on other variables.

19 Q. So if you're advertising to get
20 people to enter the market, that means that
21 you don't believe, at least, that you've got
22 a mature market; right? The way you use those
23 terms.

24 MR. LONG:

25 Object to the form.

1 A. I can't -- I can't tell you what
2 people believe when they place ads or their
3 campaigns.

4 EXAMINATION BY MR. BRUNO:

5 Q. I'm just talking about the
6 definition of terms here. Forget about the
7 belief business. The definition, I can't use
8 that term properly, I can't tell you "I've got
9 a mature product for my -- I mean, mature
10 market for my product and I am advertising for
11 people to use my product for the first time,"
12 that would be an inappropriate use of the term
13 ~~is~~ all I'm getting at?

14 MR. LONG:

15 Object to the form.

16 EXAMINATION BY MR. BRUNO:

17 Q. Isn't that true?

18 A. That's not the way I would put it.

19 Q. Why not?

20 A. Well, because what people try to do
21 is not going to define what a mature market is
22 or what a new market is.

23 Q. Who doesn't define?

24 A. People and their ad campaigns by
25 engaging in an ad campaign.

1 Q. Somebody's got to decide whether
2 or not a particular market is mature or not;
3 right?

4 A. (Witness nods head affirmatively.)

5 Q. I mean, you yourself have made an
6 expert opinion about whether the cigarette
7 market is mature or not; right?

8 A. Yes.

9 Q. Okay. And you use certain
10 criteria; right?

11 A. Right.

12 Q. And I'm just trying to understand
13 one of the criteria is that in a mature market,
14 there is no need to advertise for initiation?
15 That's a different kind of market; right? You
16 can't use the term "mature market" if you've
17 got to advertise to get people to use your
18 product for the first time?

19 MR. LONG:

20 Object to the question.

21 EXAMINATION BY MR. BRUNO:

22 Q. Do you follow me?

23 A. So, for example, if I am selling
24 farming equipment --

25 Q. Right.

1 A. -- which is a mature market, it
2 would be pointless perhaps of me to advertise
3 to get the general population to buy farming
4 equipment.

5 Q. Right.

6 A. It may be pointless but I might
7 try, anyway.

8 Q. Right.

9 A. And it still would not change the
10 definition of farming equipment as a mature
11 market

12 Q. Right.

13 A. Okay.

14 Q. Okay. That's true.

15 But another person might view the
16 marketplace and say, "You know what? I have a
17 different opinion than Lucy Henke about whether
18 this is a mature market"; right? That's fair?

19 A. Well, sure. People can say
20 anything, sure.

21 Q. Okay. And with regard to
22 cigarettes, are there experts out there who are
23 of the opinion that it is not a mature market?

24 A. None that I am aware of who are
25 credible marketing professionals.

1 Q. Good. All right. And so a
2 credible marketing professional, the last thing
3 that they would do, stupid marketers that they
4 might be, is advertise to initiate the use of
5 their product because in a mature market,
6 that's a really dumb thing to do; right?

7 MR. LONG:

8 Object to the form.

9 A. I'm telling you that, I told you
10 that --

11 EXAMINATION BY MR. BRUNO:

12 Q. Right.

13 A. -- people can engage in advertising
14 campaigns that are, as in appealing to the
15 population at large to buy farming equipment,
16 there's nothing to stop that.

17 Q. Okay.

18 A. And they may have perfectly good
19 reasons for doing that and think that it's an
20 appropriate objective. And the chances of
21 increasing the purchase of farming equipment,
22 I'm saying, are not really good.

23 Q. Right.

24 So it's a pretty stupid marketing
25 idea, if your goal is to sell more cigarettes,

1 to advertise to get people to initiate smoking?
2 That's a dumb thing to do, you would agree;
3 right?

4 MR. LONG:

5 Object to the form.

6 EXAMINATION BY MR. BRUNO:

7 Q. "Yes" or "No"?

8 A. You're asking me to make --

9 Q. I'm asking you to make a marketing
10 decision. I'm coming to you, I'm the cigarette
11 company. "Ms. Henke, you're an expert. I want
12 to advertise to get people to start smoking.
13 That's what I want to do, that's my goal." You
14 had to have goals, you said. That's my goal.
15 "Is that a good idea, Ms. Henke?"

16 A. No.

17 Q. Is that a good idea?

18 MR. LONG:

19 Object to the form.

20 A. No, it's not.

21 EXAMINATION BY MR. BRUNO:

22 Q. Is it a stupid idea?

23 A. It's not a very good idea.

24 Q. It's not a very good idea. I would
25 be wasting my money; wouldn't I?

1 A. I would say you'd be wasting your
2 money.

3 Q. Wasting your money. Okay. Good.
4 Thank you. That's all I need to understand.

5 Are you aware of any -- well, let's
6 be specific -- any publications of the CDC,
7 particularly the Morbidity and Mortality Weekly
8 Report, that would have an opinion that's
9 different from yours with regard to cigarette
10 companies advertising for smoking initiation?

11 A. Not specifically, no. I've seen
12 some copies of the --

13 Q. You've seen this?

14 A. That looks familiar, but I haven't
15 -- I don't know which one you're talking about.

16 Q. Okay. Well, let's be specific.
17 We're talking about the Morbidity and Mortality
18 Weekly Report, "Current Trends," August 1994.
19 Have you seen this?

20 A. No, I haven't.

21 Q. You've never seen that?

22 A. No.

23 Q. Okay. Well, if you've never seen
24 it, then you're certainly -- you're in no
25 position to determine whether or not you agree

1 or disagree; right?

2 A. Well, I have no idea what's in
3 that. How can I know?

4 Q. Okay. Are you aware -- I mean,
5 you've been testifying in this field now for
6 quite a number of years; haven't you?

7 MR. LONG:

8 Object to the form.

9 EXAMINATION BY MR. BRUNO:

10 Q. At least since the last time you
11 and I met?

12 A. Right.

13 Q. Which is a long time ago. About
14 five years ago?

15 A. Was that five years ago?

16 Q. Believe it or not.

17 A. That long ago?

18 Q. Yes. Unfortunately, yes. I didn't
19 have gray hair then. He (indicating Mr. Long)
20 didn't have any gray at all. Can you believe
21 it? It's true.

22 MR. LONG:

23 No, it's not.

24 MS. ROUEN:

25 It's been longer than five years ago

1 then.

2 EXAMINATION BY MR. BRUNO:

3 Q. You've been testifying for a long
4 time in this field; haven't you?

5 MR. LONG:

6 Object to the form.

7 EXAMINATION BY MR. BRUNO:

8 Q. Is five years a long time?

9 A. If it's -- If it's the last time
10 was five years ago that I saw you, I guess
11 that's a long time ago.

12 Q. Okay. Have you become aware over
13 these past --

14 MR. LONG:

15 Is it long enough?

16 MR. BRUNO:

17 I don't know. That's what we're
18 going to ask.

19 EXAMINATION BY MR. BRUNO:

20 Q. In the last five years, have you
21 encountered any articles published by the
22 Centers for Disease Control which would offer
23 an opinion that's different from yours about
24 whether cigarette companies advertise to
25 individuals under the age of 21?

1 MR. LONG:

2 Object to the form.

3 A. I have not encountered that, that I
4 recall. I don't remember seeing that.

5 EXAMINATION BY MR. BRUNO:

6 Q. Okay. Are you familiar with the
7 CDC's 1993 Teenage Attitudes and Practices
8 Survey?

9 A. TAPS.

10 Q. Right. "Yes" or "No"?

11 A. Yes.

12 Q. Okay. And are you familiar with
13 the 1989 TAPS? You don't look real familiar
14 with them.

15 A. Well, you know I've seen them and
16 I --

17 Q. "Familiar" means I know what they
18 say, I've read them, I know --

19 A. I've read them. I can't tell you
20 what they say right now. I don't remember the
21 specifics of those, but I've seen them.

22 Q. Okay. You've seen them.

23 A. But I'd have to look at them again
24 if you want to know something specific.

25 Q. All right. No, no. And you didn't

1 feel like it was important enough to review and
2 be familiar with for this deposition; right?

3 MR. LONG:

4 Object to the form.

5 A. I've reviewed those in the past.

6 EXAMINATION BY MR. BRUNO:

7 Q. Well, do they contradict you?

8 A. I can't tell you. I'd have to look
9 at them again.

10 Q. Okay. All right. Well, I'm going
11 to read to you at Page 509: "The three most
12 commonly purchased brands among adolescent
13 smokers were the three most heavily advertised
14 brands in 1993, suggesting that cigarette
15 advertising influences adolescence brand
16 preference.

17 "In 1993, Marlboro, Camel and
18 Newport ranked first, second and third,
19 respectively, in advertising expenditures;
20 however, Camel and Newport ranked seventh and
21 fifth, respectively, in overall market share."

22 Does that represent a difference of
23 view from you?

24 A. No, not necessarily, no.

25 Q. Not at all?

1 A. No.

2 Q. All it means is that the cigarette
3 advertising that's out there for brand
4 switching is reaching kids? That's all it
5 really means; right?

6 MR. LONG:

7 Object to the form.

8 A. It doesn't really say that.

9 EXAMINATION BY MR. BRUNO:

10 Q. It doesn't say that? It says that
11 -- Don't you connect the advertising with the
12 brand usage? Isn't that one way you determine
13 this brand-switching business?

14 MR. LONG:

15 Object to the form.

16 A. I don't know why those people began
17 smoking those brands.

18 EXAMINATION BY MR. BRUNO:

19 Q. I didn't say began smoking. I said --

20 A. I said began smoking those brands.

21 Q. Those brands. Okay.

22 All right. So your testimony would
23 be that if you have an advertising campaign and
24 the next year the statistics are that you have
25 an increase in that particular brand's usage,

1 that that doesn't allow you to connect the
2 advertising campaign with the statistics?

3 MR. LONG:

4 Object to the form.

5 EXAMINATION BY MR. BRUNO:

6 Q. Fair?

7 A. You would need to do a tracking
8 study that looked at a lot more variables than
9 increase in use of your brand.

10 Q. All right. Bottom line is you
11 don't buy those statistics by themselves?

12 A. I didn't say that.

13 Q. Well, are they relevant to you?

14 A. Relevant? I mean, they're
15 interesting. I've looked at them in the past.
16 I don't know if I've seen those exact ones.

17 Q. Okay. Well, --

18 A. If you'd like me to comment on it,
19 I'll take it and read it.

20 Q. I am. That was the whole point of
21 my asking the question. That's the purpose of
22 the comment and this is the question. I'm
23 trying to figure out if increased brand usage
24 coupled with a particular campaign means
25 anything to you? Maybe it means nothing. I

1 don't know.

2 A. Those two facts, no. I'd like to
3 see the context, I'd like to see the other
4 things that were measured. If you'd like me to
5 take the study and look at it and we can take
6 some time, I'll do that, and then give you an
7 opinion on it.

8 Q. Well, I will share with you that
9 the only thing they tested was brand usage.
10 That was the only thing they looked at, okay?
11 So that being true, accepting that what I'm
12 saying is correct, it wouldn't be of much value
13 to you?

14 MR. LONG:

15 Object to the form.

16 EXAMINATION BY MR. BRUNO:

17 Q. Because it didn't measure other
18 influences?

19 A. No, it's a piece of information;
20 and, as such, it would have value.

21 Q. Okay. For what? What would be the
22 value?

23 MR. LONG:

24 Object to the form.

25 A. If it relates to other work similar

1 to it, it would be good to have that as context
2 and see where it's coming from and what else
3 was happening at the time. It's a piece of
4 information.

5 EXAMINATION BY MR. BRUNO:

6 Q. If you were the advertiser, okay,
7 and you had an advertising campaign and you had
8 a measurable increase in the use of your
9 product, your testimony is that you have to do
10 a whole lot more in order to figure out whether
11 or not your advertising campaign was effective?
12 That's your testimony?

13 A. I would want to know if it was
14 effective with the target I had identified,
15 and I would want to know --

16 Q. All right. Let's say the targets --

17 MR. LONG:

18 Let's let her finish.

19 A. -- the different levels of effect.

20 EXAMINATION BY MR. BRUNO:

21 Q. I understand. But so you don't
22 give me all these variables I didn't ask you
23 for, let's be specific. Age 12 to 18 years is
24 my target, okay? And I am measuring the usage
25 in that target group.

1 A. All right. So that's a
2 hypothetical we're dealing with here.

3 Q. No, I'm reading it. "1,031 current
4 smokers aged 12 to 18 years interviewed in
5 1993, 724 (70 percent) reported they usually
6 bought their own cigarettes. The brand they
7 usually bought was ascertained for 702 (97
8 percent). Marlboro, Camel and Newport were the
9 most frequently purchased brands for 86 percent
10 of the adolescents."

11 Okay. So it's specific here. So
12 what I'm asking you is if that's my target
13 group and that was my target audience, as a
14 sponsor, as an advertiser, can I draw any
15 conclusions at all about the success or the
16 failure of that campaign?

17 MR. LONG:

18 Object to the form.

19 A. No.

20 EXAMINATION BY MR. BRUNO:

21 Q. Okay. That's fine.

22 Have you seen this document from
23 RJR entitled "YOUNGER ADULT SMOKER OPPORTUNITY,
24 PURPOSE"? And it's -- let's see now -- Scott
25 Plaintiffs' Exhibit 0167.01.

1 Is that what we're using?

2 MR. LONG:

3 I don't know.

4 MR. BRUNO:

5 Neither do I.

6 MR. BRUNO:

7 There's another number on here, it
8 says EXP.

9 MR. LONG:

10 She's not going to recognize it by
11 the numbers. But if you put it in front
12 of her, she might.

13 MR. BRUNO:

14 This is for the record.

15 MR. LONG:

16 Okay.

17 MR. BRUNO:

18 This is for the record. 003348 in
19 seriatim to 003470.

20 EXAMINATION BY MR. BRUNO:

21 Q. Have you ever seen this document?

22 A. (Witness reviews document.) No. I
23 don't remember seeing this. I don't think so.

24 MR. LONG:

25 You haven't seen it?

1 THE WITNESS:

2 I haven't seen it, no.

3 MR. LONG:

4 Okay.

5 EXAMINATION BY MR. BRUNO:

6 Q. All right. Does it suggest that
7 RJR has an interest in advertising to
8 individuals referred to as young adults?

9 MR. LONG:

10 Object to the form. Lack of
11 foundation.

12 A. This appears to be a document about
13 younger adult smokers. And any definition I
14 can find in here regarding what that is, I can
15 only infer it means 18- to 24-year-olds because
16 that's the youngest group that's ever mentioned
17 in this.

18 Is that right?

19 EXAMINATION BY MR. BRUNO:

20 Q. Okay. That's fine. So to you
21 that refers to 18- to 24-year-olds based upon
22 your --

23 A. It looks like it, yeah.

24 Q. Okay. No problem.

25 A. Do you want it back?

1 Q. Yes.

2 A. Okay.

3 Q. And you've also, in your expert
4 opinion, your testimony is that Joe Camel had
5 no impact on youth smoking; right?

6 A. On decisions to smoke, yeah.

7 Q. But it did have a big influence on
8 brand switching? I guess that's what your take
9 on all this is?

10 MR. LONG:

11 Object to the form.

12 A. I'm not sure of that.

13 EXAMINATION BY MR. BRUNO:

14 Q. You're not sure? Have you seen
15 the numbers? I mean, did you know that the
16 proportion of 12- to 17-year-olds smoking
17 Camels rose from less than 1 percent before
18 Joe Camel to 13 percent by 1993? Did you know
19 that?

20 A. Sir, you have a correlation you
21 want to make between the increase and what?

22 MR. LONG:

23 He just asked you if you knew that.

24 EXAMINATION BY MR. BRUNO:

25 Q. If you knew it?

1 A. I wasn't sure of the specific
2 figures.

3 Q. Well, did you know some general
4 figures?

5 A. There was an increase.

6 Q. There was an increase?

7 A. (Witness nods head affirmatively.)

8 Q. Okay. And your testimony is that
9 that increase was not due to the advertising?

10 MR. LONG:

11 Object to the form.

12 A. I have no reason to believe that it

13
14 EXAMINATION BY MR. BRUNO:

15 Q. Okay. And you have no reason to
16 believe that it's not?

17 A. I have a lot of reason to believe
18 that it's not.

19 Q. Oh, a lot of reasons.

20 So they just, all of a sudden, a
21 lot of their peers were smoking Camels, so they
22 decided to pick up on the Camels is your logic;
23 right?

24 MR. LONG:

25 Object to the form.

1 A. Could you be more specific about --
2 EXAMINATION BY MR. BRUNO:

3 Q. Well, your whole deal is that peer
4 pressure, peer influence, and family is the
5 reason why people smoke; right? That's what
6 you've said.

MR. LONG:

Object to the form.

EXAMINATION BY MR. BRUNO:

10 Q. So if it's not the advertising,
11 it's got to be something else; right? I mean,
12 that's a pretty dramatic shift in market share,
13 isn't it, if it's true, 1 to 13 percent?

14 A. Probably not over the time span
15 you're talking about. What is the time span?

16 Q. The time span is from when Joe
17 Camel started to 1993.

18 A. So --

19 Q. So your testimony is that a 1
20 percent to 13 percent jump is not significant?

21 A. Not if you --

22 MR. LONG:

23 Object to the form.

24 THE WITNESS:

25 If you look at the base that you're

1 drawing from, and it's a small base, then
2 an increase of 12 percentage points
3 doesn't mean an increase in a large number
4 necessarily. And I think you're talking
5 about a five-year time span.

6 EXAMINATION BY MR. BRUNO:

7 Q. Oh, really? Okay. So five years
8 is not significant? It's not a significant
9 number?

10 A. Or maybe six.

11 Q. It's '89 to '93, four years. You
12 want to look at it?

13 A. Seven? I thought Joe Camel came
14 out a little before that. Okay. Whatever this
15 is.

16 Q. If it's not significant, just tell
17 me it's not significant. No big deal.

18 A. Yeah.

19 Q. So it's not significant; right?
20 One to 13 percent over four years is not
21 significant?

22 MR. LONG:

23 Object to the questions.

24 EXAMINATION BY MR. BRUNO:

25 Q. All right. So it is significant?

1 A. I don't know what the base is we're
2 dealing with, that's what I'm saying. And I --
3 I'm not sure I agree with the 1989 figure. But
4 I'd have to go and check that, okay?

5 Q. All right. So the rate of increase
6 is not significant, either? Without knowing
7 the base?

8 A. It depends on your product
9 category, it depends on -- I mean, I don't want
10 to say that it's not significant. I'd like to
11 see the base and what your objectives were and
12 then whether these are objectives you met or --

13 Q. Okay. Did you look at any of that?

14 A. No.

15 Q. You didn't look at any of that in
16 connection with your opinions in this case?
17 You didn't look at the base; did you?

18 MR. LONG:

19 Object to the form. You're talking
20 about specifically in this study?

21 MR. BRUNO:

22 Generally, yes.

23 A. You're showing me that document and
24 asking me --

25 EXAMINATION BY MR. BRUNO:

1 Q. No, ma'am. You're making opinions
2 about Joe Camel in this nice big thick report;
3 aren't you?

4 MR. LONG:

5 Object to the form.

6 A. Some are related to the Joe Camel
7 campaign.

8 EXAMINATION BY MR. BRUNO:

9 Q. All right. Fine. And I want to
10 know whether or not you evaluated the base of
11 smokers? "Yes" or "No"? If you didn't, it's
12 okay. I just want to know if you did or you
13 didn't.

14 MR. LONG:

15 Object to the form.

16 A. That's not what my study is about.

17 EXAMINATION BY MR. BRUNO:

18 Q. Okay. So the answer to my question
19 is that you did not; right?

20 A. Did not --

21 Q. Do I need to read the question to
22 you again?

23 A. Please do it.

24 Q. All right. Good.

25 A. I'm sorry. I'm lost.

1 Q. I know. I know. I know. I've
2 been noticing that.

3 MR. LONG:

4 Objection. Move to strike.

5 MR. BRUNO:

6 I'm not -- No, I'm not -- The games
7 playing is getting old.

8 MR. LONG:

9 You bet.

10 MR. BRUNO:

11 Yeah, it is. Maybe I'll put this
12 computer in front of you and you can
13 follow the questions a little bit better.

14 EXAMINATION BY MR. BRUNO:

15 Q. The question, I want to know
16 whether or not you evaluated the base of
17 smokers in the context of the Joe Camel
18 increase from 1 percent to 13 percent from
19 1989 to 1993?

20 A. The answer is "No."

21 Q. Thank you.

22 Nor did you evaluate in any way the
23 changes in market share?

24 MR. LONG:

25 Object to the form.

1 EXAMINATION BY MR. BRUNO:

2 Q. Isn't that true?

3 A. I did not investigate what you have
4 in that document, no.

5 Q. That's not my question.

6 A. Well, it is.

7 Q. The question is -- No, the question
8 is did you evaluate any changes in market share
9 with regard to Camel cigarettes for the period
10 of time '89 to '93? If you did, you did; if
11 you didn't, you didn't.

12 MR. LONG:

13 Object to the form.

14 A. I may have evaluated reports and
15 studies that mention those figures. As I said,
16 I'm wondering about the '89 figure itself, the
17 date. I'd like to go back and look at
18 materials if you want me to comment on them.
19 But what you have there is something I've never
20 seen before.

21 EXAMINATION BY MR. BRUNO:

22 Q. I understand that. But that's not
23 the question. The question is --

24 A. And, therefore, I haven't evaluated
25 it.

1 MR. LONG:

2 Wait, wait, wait.

3 EXAMINATION BY MR. BRUNO:

4 Q. No, the question is did you
5 evaluate the change in market share yourself in
6 connection with the opinion that you have about
7 the Camel advertising campaign?

8 A. It seems to me that I have seen a
9 similar study which I did evaluate. It seemed
10 of little relevance. And I don't recall the
11 exact figures. If you'd like me to go back and
12 look into it, then I can --

13 Q. I don't want you to do anything.
14 I'm just trying to find out what you did and
15 didn't do, which we have a difficult time
16 getting for some reason.

17 MR. LONG:

18 Object to the form and move to
19 strike.

20 EXAMINATION BY MR. BRUNO:

21 Q. If you didn't evaluate the change
22 in market share, you didn't. It's okay. I
23 just want to know what you did and didn't do.
24 That will help me understand the basis for your
25 opinion, okay?

1 MR. LONG:

2 Object to the speech.

3 EXAMINATION BY MR. BRUNO:

4 Q. That's why I'm asking these
5 questions. Well, then, answer the question.
6 You didn't evaluate --

7 MR. LONG:

8 She did answer the question.

9 MR. BRUNO:

10 She did not.

11 EXAMINATION BY MR. BRUNO:

12 Q. Did you or did you not evaluate
13 specifically the change in market share of
14 Camel cigarettes over the period of time 1989
15 to 1993?

16 A. To the degree that it appears in
17 literature that I have investigated, yes, I
18 did. Can I recall that specifically now? No,
19 I haven't looked at that in a long time. And
20 the document that you provided for me here is
21 one I have not seen before and I won't comment
22 specifically on that.

23 Q. All right.

24 A. And that's my answer.

25 Q. Okay. So then what is the

1 significance, if any, of the change in market
2 share to your opinion?

3 A. I would like to look at the
4 original material before I mention it.

5 Q. What original material?

6 A. I said to the extent that
7 literature I have reviewed contains information
8 about the change in market share --

9 Q. Okay.

10 A. -- I have evaluated it. And it,
11 apparently, is not information that I have
12 marked as important to forming or changing or
13 influencing in any way my opinion.

14 Q. Okay. All right. So you don't
15 remember what your evaluation concluded?

16 A. Because I don't remember
17 specifically the literature from which I --

18 Q. Okay. No problem.

19 All right. And despite that, you
20 are testifying that the Joe Camel advertising
21 campaign made no contribution whatsoever to the
22 increase in smoking initiation among 12- to
23 17-year-olds; right?

24 MR. LONG:

25 Object to the form.

1 EXAMINATION BY MR. BRUNO:

2 Q. That's your testimony in this case?

3 A. I wasn't listening to the specific
4 words.

5 Q. I'll do it again.

6 A. Thank you.

7 Q. I want to confirm that your opinion
8 is that the Joe Camel advertising campaign made
9 no contribution whatsoever to the increase in
10 smoking initiation among 12- to 17-year-olds?

11 A. Yes.

12 Q. Okay.

13 A. Earlier, you were talking about
14 smokers. Now you're talking about nonsmokers
15 becoming smokers.

16 Q. Yes, I am.

17 A. All right. Then no. My answer
18 is --

19 Q. Your answer is "No." Okay.

20 A. (Witness nods head affirmatively.)

21 Q. Are you familiar with any surveys
22 which specifically asked that group of
23 individuals what they thought?

24 MR. LONG:

25 Object to the form of the question.

1 EXAMINATION BY MR. BRUNO:

2 Q. Are you? Any work out there?

3 A. The 12- to 18-year-olds in general?

4 Q. Twelve- to 17-year-olds,
5 actually --

6 A. Okay. Twelve- to 17-year-olds.

7 Q. -- who bought Camels, have you
8 looked at any studies wherein the question
9 was asked to them, are you aware of any?

10 MR. LONG:

11 What question?

12 EXAMINATION BY MR. BRUNO:

13 Q. The question of why -- of whether
14 or not they perceived the advertising to cause
15 them to initiate smoking?

16 A. Those specific smokers?

17 Q. Yes.

18 A. A question about what influenced
19 them?

20 Q. Yes.

21 A. A question like that, I'm not
22 familiar with a study.

23 Q. No study. Okay. So, obviously,
24 you're not familiar with any studies which
25 asked 12- to 17-year-olds, that is, asked them

1 directly whether or not the Joe Camel ad made
2 smoking more appealing to them, you're not
3 familiar with that, either?

4 MR. LONG:

5 Object to the form.

6 A. There are a lot of studies that have
7 asked --

8 EXAMINATION BY MR. BRUNO:

9 Q. I'm sure there are.

10 A. -- smokers.

11 Q. It's a real simple question.

12 If you're familiar with it, you
13 are; and if you're not familiar with it, you're
14 not. So if you're not familiar with it, it's
15 okay. Nobody will say bad things about you.
16 We just want to know what the truth is.

17 A. Okay.

18 MR. LONG:

19 Object to the form.

20 THE WITNESS:

21 Not having seen the entire survey --
22 There are studies that have asked 12- to
23 17-year-olds a lot of questions about what
24 they smoke, if they smoke, when they
25 started to smoke, what ad campaigns

1 they've seen.

2 I mean, one of them, I don't know if
3 you're talking about Pierce here, but the
4 specific question of appeal was not in the
5 Pierce study. There are other studies
6 that ask people about their perceptions of
7 ad campaigns and how appealing they are.

8 EXAMINATION BY MR. BRUNO:

9 Q. Not other people. Twelve- to
10 17-year-olds.

11 A. Yeah.

12 Q. Okay. I just wanted to make sure
13 you didn't switch it on me again.

14 A. No.

15 MR. LONG:

16 I object to the comment.

17 MR. BRUNO:

18 It's been done in the past.

19 MR. LONG:

20 I know. You've done it several
21 times.

22 EXAMINATION BY MR. BRUNO:

23 Q. So there are studies which you've
24 read which asked 12- to 17-year-olds what was
25 appealing? And the results of those studies

1 were what?

2 A. Well, for example, Phillips and
3 Stavchansky asked students if they understood
4 the messages of cigarette campaigns, some
5 cigarette ad campaigns.

6 Q. That's not the question.

7 A. Well, if they were appealing.

8 Q. That implies intent, I'm sorry,
9 not -- You said if they understood the message.
10 You have to know what the message is first,
11 which requires the intent of the person giving
12 the message; isn't that true?

13 MR. LONG:

14 Object to the form.

15 A. Asked their perceptions of.

16 EXAMINATION BY MR. BRUNO:

17 Q. The question is whether or not they
18 were asked the question did they find it
19 appealing? That's the question. Real simple.
20 And do you want me to write it down for you so
21 we don't change it?

22 MR. LONG:

23 Object to the form. Object to the
24 comment.

25 MR. BRUNO:

1 Well, I'm sorry. I keep asking
2 Question A and I get an answer to Question
3 B.

4 MR. LONG:

5 No.

6 MR. BRUNO:

7 Yes. The record is replete.

8 MR. LONG:

9 We can go "No," "Yes" back and forth
10 all day long, but --

11 MR. BRUNO:

12 Okay. We won't. Let's just say we
13 both did it twelve times and stop there.

14 MR. LONG:

15 Fourteen.

16 MR. BRUNO:

17 Okay. Fine. I'll agree.

18 MR. LONG:

19 Is there a question, Joe? I mean,
20 honestly, I can't recall.

21 MR. BRUNO:

22 Yes. The question is is Ms. Henke
23 aware of any studies which asked 17- to
24 12-year-olds whether or not the Joe Camel
25 advertising campaign made smoking more

1 appealing. That was the question.

2 Do you want me to read it?

3 MR. LONG:

4 No, that's fine.

5 THE WITNESS:

6 We're talking about DiFranza, the
7 DiFranza study?

8 EXAMINATION BY MR. BRUNO:

9 Q. I'm asking you, the expert. If
10 there's no such studies out there or if there's
11 a DiFranza study out there, just give it to me.

12 A. Does Joe Camel make smoking more
13 appealing? I think it's Joe DiFranza and a
14 number of people.

15 Q. Okay. DiFranza. And what was his
16 finding?

17 A. Do you want his finding or do you
18 want the finding that the people who reanalyzed
19 his data concluded?

20 MR. LONG:

21 His finding. His finding.

22 THE WITNESS:

23 Okay. That it did make smoking more
24 appealing.

25 EXAMINATION BY MR. BRUNO:

1 Q. All right. And now you can tell me
2 about the other people -- I mean, I'm going to
3 give you your shot here, I'm fair -- now tell
4 me about the other people who analyzed his data
5 and concluded something different.

6 MR. LONG:

Object to the form.

8 EXAMINATION BY MR. BRUNO:

9 Q. Go ahead.

10 A. There is a textbook by Tellis to
11 which I refer which uses DiFranza and a few
12 other studies as examples of poor methodology.
13 And it's used as an example in a chapter on
14 social science research methodology.

15 Q. Okay. And that chapter uses the
16 particular cigarette study?

17 A. That and another one.

18 Q. It uses the particular cigarette
19 study and it refers specifically to that
20 question?

21 A. Well, to the results.

22 Q. Which results?

23 A. And the methods used to obtain
24 them.

25 Q. All right. So, in your opinion,

1 the DiFranza study is not authoritative?

2 A. Yes.

3 Q. Okay. All right. Any other
4 studies that you can think of other than
5 DiFranza?

6 A. I can think of a lot of studies.
7 Would you be more specific, please?

8 Q. I was specific. You changed the
9 subject on me. We're talking about --

10 MR. LONG:

11 Now, wait a minute, Joe. You just
12 said studies. You didn't say studies
13 about what when you're talking about this
14 question.

15 MR. BRUNO:

16 Yes, I did.

17 MR. LONG:

18 No, you didn't.

19 MR. BRUNO:

20 Look, we're in context. We haven't
21 changed the context.

22 MR. LONG:

23 Well, if we're going to get a clear
24 record --

25 MR. BRUNO:

1 We said DiFranza.

2 MR. LONG:

3 If we're going to get a clear record

4 MR. BRUNO:

5 I said any other studies. And then
6 you want to tell me that you don't
7 remember what we're talking about? Fine.
8 I'll start the whole process all over
9 again and we'll be here till next year,
10 all right?

11 THE WITNESS:

12 May I say something?

13 MR. BRUNO:

14 You may say something.

15 THE WITNESS:

16 Thank you.

17 What we had just talked about were
18 studies that were mentioned in Gerard
19 Tellis' book as samples of poor
20 methodology. Would you like me to name
21 the other one I was referring to? It's
22 Fischer, et al.

23 EXAMINATION BY MR. BRUNO:

24 Q. No. We were talking about studies
25 where individuals 12 to 17 were asked about

1 whether or not the Joe Camel advertising made
2 smoking more appealing.

3 A. Okay.

4 Q. I allowed you the little aside
5 there because you made me or gave me the
6 impression that you were anxious to say what
7 you had to say about it. And I allowed that.
8 We were talking about specific studies.

9 MR. LONG:

10 Object to the speech.

11 EXAMINATION BY MR. BRUNO:

12 Q. All right. So are there any other
13 studies out there that ask that question?

14 A. I don't know about that specific
15 question, but Pierce did attempt to get at the
16 same information.

17 Q. Okay. And he was discredited as
18 well?

19 A. Okay.

20 Q. Okay. I'm sure you've seen this
21 Camel advertising development white paper.

22 A. No. (Witness reviews document.)
23 Okay. I mean, I haven't seen this. Do you
24 want me to comment on any specific --

25 Q. No. If you haven't seen it, that's

1 a start. Let me ask you a specific question
2 about it.

3 A. Okay.

4 Q. Okay. Do we need to have -- For
5 the record, this is Scott Plaintiffs' Exhibit
6 Number 563.01. All right. At Page 1 of the
7 document, it says, "The future success of any
8 cigarette brand is driven by its ability to
9 attract younger adult smokers." This is
10 consistent with your views that this is all
11 about brand switching; right?

12 A. It sounds like it, yes.

13 Q. Okay. Now, it says "Only about 5
14 percent of all smokers start smoking after the
15 age of 24 years old." Does that sound right?

16 A. It could be. I wouldn't dispute
17 it.

18 Q. This is a tobacco document. Okay.
19 "The majority of younger adult smokers will
20 stay loyal to their first brand choice."

21 A. Maybe. I don't know.

22 Q. Maybe? Maybe not?

23 A. Right.

24 Q. I mean, it would be --

25 A. I don't know. I mean, I don't --

1 Q. You don't know?

2 A. That's what they say. I don't
3 know. I haven't done that.

4 Q. Do you agree or disagree?

5 A. I don't have information on that.

6 Q. Okay. "The aging of younger adult
7 smokers, combined with their brand loyalty,
8 guarantees the growth of a brand for decades."
9 Do you agree with that?

10 MR. LONG:

11 Object to the form.

12 A. I can't comment on that statement
13 without research.

14 EXAMINATION BY MR. BRUNO:

15 Q. Okay. Now, we talked a lot about
16 the business of the -- Well, you've already
17 said that peer pressure, family is the reason
18 for smoking initiation; right?

19 MR. LONG:

20 Object to the form.

21 A. The strongest influencing factors
22 are shown in research to be family, peers,
23 siblings.

24 EXAMINATION BY MR. BRUNO:

25 Q. Okay. So would you regard an

1 advertising campaign that sought to influence
2 peer acceptance or influence as an attempt to
3 initiate smoking?

4 A. No.

5 Q. Why not?

6 A. Well, that's a pretty, again,
7 that's a pretty broad question. What do you
8 mean, attempt to influence peer pressure?

9 Q. Well, let's see. RJR thought that
10 that's what they were trying to do. They said,
11 "Overall, Camel advertising will be directed
12 toward using peer acceptance/influence to
13 provide the motivation for target smokers to
14 select Camel." So, I mean, using the words
15 that you've been using all morning --

16 A. Right.

17 Q. -- it would appear to me that they
18 thought that they were going to advertise, that
19 they were going to reach these so-called --
20 what do we call them? -- opinion leaders and
21 other agents of socialization?

22 MR. LONG:

23 Object to the form. If you want her
24 to comment on the document, why don't you
25 let her look at it?

1 MR. BRUNO:

2 Oh, sure.

3 MR. LONG:

4 I assume you're going to be a while
5 longer, so we probably ought to take a
6 lunch break.

7 MR. BRUNO:

8 If you want to take a lunch break,
9 we can.

10 MR. LONG:

11 Well, I assume you're not going to
12 get finished in the next hour, so --

13 MR. BRUNO:

14 Oh, I don't know. We'll do whatever
15 you want. I don't eat lunch. I don't
16 care.

17 MR. LONG:

18 I mean, it just depends -- I mean,
19 it depends -- This is not on the record.

20 THE VIDEOGRAPHER:

21 We're going off the record at 12:13.

22 MR. BRUNO:

23 Can we get an answer to this
24 question before we go to break, please?

25 (Whereupon a brief recess was taken

1 at this time from 12:13 o'clock p.m. to
2 12:16 o'clock p.m.)

3 MR. LONG:

4 Cheryl, would you read whatever the
5 last question was?

6 MR. BRUNO:

7 Yeah.

8 MR. LONG:

9 You're not Cheryl.

10 THE VIDEOGRAPHER:

11 We are back on the record at 12:16.

12 MR. BRUNO:

13 Okay. The question was it would
14 appear --

15 MR. LONG:

16 You're not Cheryl. I asked Cheryl.

17 MR. BRUNO:

18 Oh, I'm sorry. Well, I got this
19 computer here, too. Go ahead, Cheryl, you
20 do it.

21 (Whereupon the preceding question
22 was read back by the court reporter.)

23 MR. BRUNO:

24 Okay. Then you read the document.

25 THE WITNESS:

1 I've looked over it. I haven't read
2 every bit of it.

3 MR. BRUNO:

4 Well, you've read the --
5 THE WITNESS:

6 But I've seen enough of it.

7 MR. BRUNO:

8 You've read the paragraph. Well,
9 you've seen enough. Okay. Fine. So no
10 further comment is necessary.

11 THE WITNESS:

12 Okay. And the specific question
13 regarding this, if you wouldn't mind
14 telling me the question.

15 MR. BRUNO:

16 She just read it to you, but I'll do
17 it again.

18 THE WITNESS:

19 Okay.

20 EXAMINATION BY MR. BRUNO:

21 Q. Okay. In here, you read the --
22 you're reading the paragraph and we're using
23 advertising terms now because we've got an old,
24 you know, an RJR internal document; right?
25 That's what this thing is?

1 A. Yes, that's what it is.

2 Q. Okay. And it's Scott Plaintiffs'
3 Exhibit Number 0202.01. And it's an RJR secret
4 document. And it's to Mr. D. N. I-A-U-C-O,
5 regarding "CAMEL New Advertising Campaign
6 Development." Are you familiar with those
7 words "campaign"; right?

8 A. Sure.

9 Q. And "development"?

10 A. Right.

11 Q. Okay. And the first thing it does,
12 it describes the target audience?

13 A. Uh-huh (indicating affirmatively).

14 Q. Right?

15 A. Yes.

16 Q. Okay. And the target audience, it
17 says here, is 18 to 24 males. That's the
18 target, right? You want to read it? Go ahead
19 and look at it again.

20 A. It says, "18 to 24 male smokers."

21 Q. Okay.

22 A. Okay.

23 Q. All right. Then it talks about the
24 objective. And we agreed this morning you
25 always need an objective if you're going to do

1 this competently --

2 A. Right.

3 Q. -- correct?

4 A. (Witness nods head affirmatively.)

5 Q. All right. Now, the objective is
6 to direct the advertising toward using peer
7 acceptance/influence; right?

8 A. Right.

9 Q. And you've already testified that
10 peer acceptance/influence is one of those
11 things -- well, it's the thing that initiates
12 young adults to smoking; right?

13 MR. LONG:

14 Object to the form.

15 A. That and parent influence --

16 EXAMINATION BY MR. BRUNO:

17 Q. Parent influence.

18 A. -- and sibling influence.

19 Q. What I'm wondering here is the
20 cigarette companies are recognizing that their
21 advertising can influence peer acceptance and
22 peer influence? Isn't that what this says?

23 A. They cite it as an objective. It
24 doesn't mean they think they can do it or that
25 they do achieve it. But it seems --

1 Q. They think they can do it,
2 otherwise, they wouldn't be bothering with it;
3 right?

4 MR. LONG:

5 Object to the form.

6 A. Well, I don't know what they do with
7 that piece of paper. I mean, I have no idea if
8 that turned into a campaign or not.

9 EXAMINATION BY MR. BRUNO:

10 Q. Understood.

11 But this piece of paper, if you
12 take it -- Somebody wrote this piece of paper,
13 he had the opinion or she had the opinion that
14 they could use their advertising to be directed
15 toward peer acceptance and/or peer influence;
16 right?

17 MR. LONG:

18 Object to the form.

19 EXAMINATION BY MR. BRUNO:

20 Q. That's what it says.

21 A. It intends or it appears to attempt
22 to portray peer acceptance/peer influence, but
23 it cannot be the same as peer influence or peer
24 acceptance.

25 Q. That's fine.

1 A. Okay.

2 Q. All I'm telling you is you agree
3 with me these guys, whoever wrote this memo,
4 thought he could influence peer acceptance or
5 peer influence, he thought he could do that
6 with his advertising?

7 MR. LONG:

8 Object to the form.

9 A. I don't think that's -- Can I look
10 at that again, please?

11 EXAMINATION BY MR. BRUNO:

12 Q. Sure, you can.

13 A. Thank you.

14 (Witness reviews document.) Okay.

15 "CAMEL advertising will be directed toward
16 using peer acceptance/influence to provide the
17 motivation for target smokers to select CAMEL."

18 Q. That's what it says.

19 A. Right.

20 Q. You told me this morning that you
21 would never go end around? Remember you said
22 you would never go through to get to the
23 target, you always go straight to the target.
24 Remember that exchange?

25 MR. LONG:

1 Object to the form.

2 A. Yes.

3 EXAMINATION BY MR. BRUNO:

4 Q. Okay. And these guys are doing an
5 end around -- they want to do an end around;
6 don't they? I'm not saying that's right, but
7 that's what they want to do?

8 MR. LONG:

9 Object to the form.

10 A. That's not what I understood what
11 you were talking about this morning.

12 EXAMINATION BY MR. BRUNO:

13 Q. Because you chose not to think of
14 it that way. I was asking you specifically
15 whether or not you would use opinion leaders
16 and/or other agents of socialization to reach
17 your target. You said, "No"?

18 A. And this does not, either.

19 Q. It doesn't?

20 A. No.

21 Q. Okay. Who's the target?

22 A. I think we mentioned that.

23 Q. Yes, we did. Eighteen to 24
24 smokers?

25 A. Eighteen to 24 male smokers.

1 Q. Okay. And we're going to use peer
2 influence and peer pressure to influence them;
3 aren't we?

4 A. That's an appeal that's being used
5 for the advertising. They are not using peer
6 acceptance; they are using --

7 Q. I never said peer acceptance.

8 MR. LONG:

9 Let her finish.

10 EXAMINATION BY MR. BRUNO:

11 Q. The target --

12 MR. LONG:

13 Did you finish --

14 EXAMINATION BY MR. BRUNO:

15 Q. The target is the peers and the
16 peers are going to influence the smokers.
17 That's what it says in black and white; doesn't
18 it?

19 MR. LONG:

20 Did you finish your last answer?

21 THE WITNESS:

22 I didn't.

23 This campaign is using peer
24 acceptance in images, if this is the
25 content of the ad, in ad images aimed

1 at 18- to 24-year-old male smokers.

2 EXAMINATION BY MR. BRUNO:

3 Q. Okay. Well, you tell me what you
4 think it means then.

5 A. It's conveying whatever they think
6 it will take --

7 Q. I understand that.

8 A. -- to, quote, project an image that
9 will enhance their acceptance among their
10 peers.

11 Q. Exactly. Which is what we've been
12 talking about all morning long.

13 A. Well, it's aimed at 18- to
14 24-year-old male smokers with a message that
15 they believe will or that it's stated there
16 will use peer influence and peer approval as a
17 motivating factor.

18 Q. Right. And we've already --

19 A. But it is not aimed at the peers;
20 it's aimed at the smokers who are the prime
21 prospect. And it is not the same as peer
22 influence, which is non -- which is personal.
23 This is nonpersonal. It's an ad campaign by
24 definition, you know, assuming that this is --

25 Q. Okay. That's fine. Just help me

1 to understand that.

2 A. Okay.

3 Q. How do you direct toward using peer
4 acceptance? How do you do that?

5 A. Well, that's up to the creative
6 director.

7 Q. Well, so if the creative director
8 wants to, he might want to try to approach the
9 peer of the smoker so that the smoker might be
10 influenced by what his peers are doing?

11 MR. LONG:

12 Object to the form of the question.

13 A. The use of peer influence and peer
14 approval here could be equated with the use of
15 humor, the use of fear, the use of any of a
16 number of other advertising appeals.

17 EXAMINATION BY MR. BRUNO:

18 Q. Except you're forgetting the
19 dangling participle, which is to provide the
20 motivation. So that the peers are providing
21 the motivation for the target smokers. That's
22 what it says in black and white. Doesn't it
23 say that? Does it say that? "Yes" or "No"?

24 A. No.

25 Q. It doesn't say that?

1 A. No.

2 Q. Okay. So what does it say then?

3 A. May I have it again?

4 Q. You can have it again. You can
5 look at it a thousand times until you can
6 figure out what it says.

MR. LONG:

7 Object to the comment. Move to
8 strike.

9 A. The objectives of the advertising?
10 "Convincing target smokers that by selecting
11 CAMEL as their usual brand, they will project
12 an image that will enhance their acceptance
13 among their peers." It is directed toward
14 using peer influence and acceptance, peer
15 acceptance/influence to provide the motivation
16 for target smokers to select Camel.

17 I don't see where we're not meeting
18 on this one.

19 EXAMINATION BY MR. BRUNO:

20 Q. Well, your testimony is that people
21 initiate smoking because of peer influence?

22 A. Sibling influence, parent
23 influence, peer influence are the major factors
24 in initiation of smoking.
25

1 Q. Major factors. Okay. And so if
2 you can make it more acceptable to your peers,
3 that is, your advertising portrays people just
4 like you, using the same product, doesn't that
5 accomplish the same thing?

6 MR. LONG:

7 Object to the form.

8 EXAMINATION BY MR. BRUNO:

9 Q. Isn't that what the ad campaign is
10 all about?

11 MR. LONG:

12 Object to the form.

13 A. Which is not the same as peer
14 influence.

15 EXAMINATION BY MR. BRUNO:

16 Q. They talk about peer influence,
17 too. They do both. I'm just taking them one
18 at a time. Peer acceptance is you portray the
19 use of the product by the peers of the target
20 audience; right?

21 A. I don't know what the creative
22 directors have decided indicates --

23 Q. Well, what do they mean?

24 A. -- peer acceptance and peer
25 approval.

1 Q. Well, what could it possibly mean?

2 MR. LONG:

3 Object to the question. It calls
4 for speculation.

5 EXAMINATION BY MR. BRUNO:

6 Q. Okay. If this -- If you think this
7 is so speculative as to be incomprehensible,
8 just tell me.

9 MR. LONG:

10 Object to the form of the question.

11 A. What is speculative?

12 EXAMINATION BY MR. BRUNO:

13 Q. This sentence, "Using peer
14 acceptance/influence," if you have no earthly
15 idea what is meant by that, I'll accept it.
16 If you don't have a clue as to what this
17 advertising guy is talking about, tell me
18 that's what your view is and we can move on.

19 MR. LONG:

20 Object to the form of the question.

21 A. No, what I said is I can't speculate
22 about what they think that looks like in an ad
23 campaign. You described --

24 EXAMINATION BY MR. BRUNO:

25 Q. I don't care what it looks like.

1 A. Excuse me. May I finish, please?

2 Q. Sure.

3 A. Thank you.

4 You described the content of an ad,
5 and asked me to agree with you that that's what
6 a portrayal of peer acceptance would be. And
7 my answer is I don't know what they intended to
8 put into the ad that they think will indicate
9 peer acceptance and influence will be the
10 result.

11 Q. I didn't ask that. That's not what
12 I asked.

13 A. Okay.

14 Q. I said -- I'm using the words out
15 of this sentence. The advertising is using
16 peer acceptance or influence. Whatever the
17 heck that might be, the reason why they're
18 using that is because of your own findings that
19 show that people are influenced by peer
20 acceptance and peer influence; isn't that true?

21 MR. LONG:

22 Object to the form of the question.

23 A. I don't know why they chose it.

24 EXAMINATION BY MR. BRUNO:

25 Q. I didn't ask you why. I said it

1 supports your view. Listen to the question.

2 MR. LONG:

3 You did ask her if they're doing
4 that because of her --

5 THE WITNESS:

6 -- my findings.

7 MR. LONG:

8 Question?

9 EXAMINATION BY MR. BRUNO:

10 Q. Does this agree or disagree with
11 your conclusions that peer acceptance or
12 influence will impact an individual's decision?

13 A. It does not agree with any
14 conclusions.

15 Q. It doesn't?

16 A. No. That's an indication of an
17 appeal being used in an ad campaign.

18 Q. All right. It's an appeal that is
19 not directed to the target audience; is it?

20 A. It is an appeal that is directed,
21 and it specifically cites, to a target audience
22 of 18 to 24 male smokers.

23 Q. It is not an appeal to the target
24 audience. It uses peer acceptance and
25 influence?

1 MR. LONG:

2 Object to the form.

3 EXAMINATION BY MR. BRUNO:

4 Q. Well, then, you tell me. What does
5 it mean?

6 A. It means that --

7 Q. What does this mean? Using peer
8 acceptance, what does the phrase "using peer
9 acceptance" mean?

10 MR. LONG:

11 Object to the form of the question.

12 A. That that is a way they believe --

13 EXAMINATION BY MR. BRUNO:

14 Q. No, what is it? Not that's a way.
15 What is peer acceptance?

16 A. No, no, no, that's different from
17 what you have under your thumb there.

18 Q. Well, I'm reading --

19 A. Peer acceptance --

20 Q. -- "using peer acceptance." What
21 does that mean, "using peer acceptance"? The
22 whole phrase, what does it mean?

23 MR. LONG:

24 Object to the form. Do you mean in
25 the context of that document?

1 MR. BRUNO:

2 Yes.

3 MR. LONG:

4 Object to the form of the question.

5 EXAMINATION BY MR. BRUNO:

6 Q. If you don't know, you don't have a
7 clue, I'll accept that.

8 A. The use of peer influence as an
9 appeal is not, in an advertising campaign, is
10 not the same as peer influence in reality.

11 Q. I didn't ask that. I said what is
12 it? And the jury can decide whether it's the
13 same or different. Follow?

14 MR. LONG:

15 Object to the --

16 EXAMINATION BY MR. BRUNO:

17 Q. You describe what it is.

18 MR. LONG:

19 Object to the --

20 EXAMINATION BY MR. BRUNO:

21 Q. And they can compare the two
22 things.

23 A. All right.

24 Q. Let them decide.

25 A. All right.

1 Q. You tell me what it is first, and
2 then we'll decide whether or not it's the same
3 or different.

4 A. All right.

5 Q. That's why --

6 A. From that document, what I can tell
7 you is --

8 MR. LONG:

9 Just for the record, I object to the
10 form of the question and the speech and
11 move to strike.

12 MR. BRUNO:

13 All right. Good.

14 THE WITNESS:

15 From that document, it appears that
16 peer acceptance/peer approval is an appeal
17 that has been chosen as a theme of an ad
18 campaign to reach 18 to 24 male smokers.
19 How that appeal is made tangible depends
20 on what a creative director and what
21 perhaps a CEO in an ad agency and the
22 client will agree is an appropriate and
23 effective way to make that appeal tangible
24 in the ads.

25 EXAMINATION BY MR. BRUNO:

1 Q. Great. Give me an example then of
2 an appeal to peer acceptance or influence.

3 MR. LONG:

4 Object to the --

5 EXAMINATION BY MR. BRUNO:

6 Q. If you say it's somebody else's
7 opinion, give me an example so I can know what
8 the heck you're talking about.

9 MR. LONG:

10 Object to the form of the question.

11 EXAMINATION BY MR. BRUNO:

12 Q. What would be an appeal that would
13 fit that definition?

14 A. I don't know.

15 Q. You don't know?

16 A. I have an appeal in an ad campaign
17 that cites that as -- I don't know how they
18 would do that. Good luck.

19 Q. "Good luck," meaning that it
20 wouldn't work?

21 A. Well, it's certainly not the same
22 as personal peer influence and personal peer
23 acceptance and interaction with peers. It's a
24 nonpersonal medium. It can only attempt to.

25 Q. You said, "Good luck." What did

1 you mean when you said "Good luck"? You were
2 referring to this sentence; weren't you?

3 A. Yes.

4 MR. LONG:

5 Object to the form.

6 EXAMINATION BY MR. BRUNO:

7 Q. All right. Why did you say "Good
8 luck"?

9 A. Because nonpersonal communication
10 cannot mimic personal communication.

11 Q. All right. So you regard this peer
12 acceptance/influence as nonpersonal
13 communication?

14 A. Well, an ad campaign is nonpersonal
15 communication. And that's what that's about,
16 if that's what this is about, because I'm
17 hypothesizing based on what you've shown me.

18 Q. All right. So then with the
19 nonpersonal stuff, I mean, that's all
20 advertising?

21 A. Yes.

22 Q. All right. Well, that's more broad
23 than what I've got here. Why did you say "Good
24 luck" when you said in the context of using
25 peer acceptance or influence?

1 MR. LONG:

2 Object to the form.

3 EXAMINATION BY MR. BRUNO:

4 Q. Are you saying the advertising
5 won't work in general or this particular type
6 of advertising won't work?

7 A. I think maybe there is some
8 confusion about the limitations of an ad
9 campaign and its ability to be equated with
10 personal influence by a receiver.

11 Q. So why are they doing this at all?

12 MR. LONG:

13 Object to the form.

14 EXAMINATION BY MR. BRUNO:

15 Q. Just to kill time?

16 A. I have no idea.

17 MR. LONG:

18 Object to the form.

19 THE WITNESS:

20 Ask them.

21 EXAMINATION BY MR. BRUNO:

22 Q. All right. Ask them.

23 Okay. Well, can I assume at least
24 that somebody thought that this particular
25 campaign might be effective for improving sales

1 of cigarettes for this company?

2 MR. LONG:

3 Object to the form.

4 A. I have -- You know, they have some
5 objectives written there regarding purchase and
6 sales. I don't know. You know, that's part of
7 the document. It might be in there.

8 EXAMINATION BY MR. BRUNO:

9 Q. Okay. So your opinion would be
10 that this Camel new advertising campaign would
11 be ineffective?

12 MR. LONG:

13 Object to the form of the question.

14 A. I didn't say that.

15 EXAMINATION BY MR. BRUNO:

16 Q. Well, I thought you did.

17 A. I didn't say that.

18 Q. It's not personal. That's what you
19 said, it's not personal. Is it going to work
20 or not?

21 A. I don't know.

22 Q. Well, how do you judge that?

23 A. Well, I would identify objectives
24 of an ad campaign before I started the
25 campaign.

1 Q. We've got that.

2 A. I would get a benchmark study that
3 indicated what the attitudes and awareness
4 levels were before the campaign began. I would
5 ask a series of questions about preferences,
6 likes, dislikes, current purchase behavior,
7 anticipated purchase behavior, any of a large
8 number of questions, which I would then ask of
9 those or an equivalent sample -- those people
10 or an equivalent sample some period of time
11 into the campaign, and then I would know more
12 about the effectiveness of the campaign in
13 reaching stated goals.

14 Q. That's all in here, too; isn't it?
15 Rationale, psychological motivation, the copy
16 strategy, that's all been done in this
17 particular study?

18 A. An advertising tracking study is
19 different. I'm sorry, that wasn't a question.

20 Q. The rationale: "Aspiration to be
21 perceived as a cool/a member of the in-group is
22 one of the strongest influences affecting the
23 behavior of young adult smokers." That's a
24 conclusion that somebody got from somewhere;
25 right?

1 MR. LONG:

2 Object to the form.

3 A. That's a statement on a piece of
4 paper that you're showing me.

5 EXAMINATION BY MR. BRUNO:

6 Q. That's a statement on a tobacco
7 piece of paper that I'm showing you.

8 A. Okay.

9 Q. All right?

10 A. All right.

11 Q. So if we accept it to be an
12 authentic tobacco piece of paper, and we accept
13 it to be that when this tobacco guy wrote
14 "Rationale," he was describing the logic upon
15 which he bases his campaign; isn't that true?

16 MR. LONG:

17 Object to the form of the question.

18 EXAMINATION BY MR. BRUNO:

19 Q. Or you can't draw any conclusions
20 at all from this?

21 A. I wouldn't draw any serious
22 conclusions from this, no. I don't know what
23 context it's existing in. It looks like a --

24 Q. I don't --

25 MR. LONG:

1 Let her finish.

2 THE WITNESS:

3 -- fairly standard, you know,
4 preliminary strategy statement.

5 EXAMINATION BY MR. BRUNO:

6 Q. Okay. And your testimony would be
7 that this rationale would not be an indication
8 that this person had had some, in fact, some
9 studies that he had available to him; right?

10 MR. LONG:

11 Object to the form.

12 A. He could have written that for any
13 reason or she could have written it for any
14 reason.

15 EXAMINATION BY MR. BRUNO:

16 Q. Any reason. All right.

17 A. I have no idea.

18 Q. Well, do you know of any studies
19 or publications which would say that the
20 aspiration to be perceived as a cool/a member
21 of the in-group is one of the strongest
22 influences affecting the behavior of a younger
23 adult smoker? Is that a true statement or a
24 false statement?

25 MR. LONG:

1 Objection. Which one do you want
2 her to answer? Whether she knew of a
3 study or whether it's a true or false
4 statement?

5 EXAMINATION BY MR. BRUNO:

6 Q. No, I want to know if the studies
7 indicate whether it's a true or false
8 statement?

9 A. A whole body of literature would
10 recommend -- would suggest that adolescents
11 do seek peer approval. And that seems to be
12 a reference to that.

13 Q. Right.

14 Which would kind of dovetail into
15 his goal of using peer influence and peer
16 acceptance; wouldn't it?

17 MR. LONG:

18 Object to the form.

19 EXAMINATION BY MR. BRUNO:

20 Q. Wouldn't it?

21 A. It seems to flow.

22 Q. Okay. All right. Then he, also,
23 he's got here listed as a rationale,
24 "Personality attributes respected by target
25 smokers and inherent in their definition of

1 cool include a degree of rebellion or
2 nonconformity, along with the self-confidence
3 to remain in control of the somewhat risky,
4 exciting lifestyle associated with these
5 characteristics."

6 Are you aware of any studies or
7 publications that would allow for you to
8 conclude whether that's a true or false
9 statement?

10 MR. LONG:

11 Object to the form.

12 A. No, I'm not.

13 EXAMINATION BY MR. BRUNO:

14 Q. Okay. The third rationale he's got
15 here is "CAMEL's nonconformist, self-confident
16 user heritage, in conjunction with its percep-
17 tion as a unique, different and one-of-a-kind
18 brand, makes CAMEL the only brand which can
19 credibly execute this strategy."

20 Are you aware of any marketing
21 studies that would allow one to conclude
22 whether that's a true statement or a false
23 statement?

24 MR. LONG:

25 Object to the form.

1 A. That's an assertion about how Camel
2 is differentiated from its competitors. I
3 don't know.

4 EXAMINATION BY MR. BRUNO:

5 Q. And "This approach will capitalize
6 upon the ubiquitous nature of Marlboro by
7 repositioning it as the epitome of conformity,
8 versus CAMEL the smoke."

9 Any studies that would allow one to
10 conclude whether that's a true statement or a
11 false statement?

12 A. Interesting. No.

13 Q. All right. But these rationales
14 are all consistent with the peer pressure and
15 peer influence goal that this gentleman -- I
16 think it's a gentleman -- Mr. R. T. Caufield,
17 and we don't know who this is, male or female,
18 this person's goal of using peer acceptance and
19 influence?

20 A. It's the rationale.

21 MR. LONG:

22 Object to the form of the question.

23 EXAMINATION BY MR. BRUNO:

24 Q. Okay. All right. Maybe you can
25 help me understand some of this advertising

1 lingo in this memo. On Page 2 it says,
2 "Campaigns which rely on literal depiction of
3 smokers to communicate desired user imagery
4 will ensure that models and situations selected
5 are highly relevant and appealing to not only
6 target smokers but broader demographic groups
7 as well."

8 Do you know what that means?

9 MR. LONG:

10 Object to the form.

11 A. Which part?

12 EXAMINATION BY MR. BRUNO:

13 Q. The whole thing.

14 A. I could just speculate about that.

15 I mean, I'd have an interpretation but, you
16 know, I don't know what --

17 Q. Well, what's your interpretation as
18 an expert in the field and with your knowledge
19 of all these advertising words?

20 MR. LONG:

21 Object to the form.

22 A. That sentence taken alone is not
23 very instructive.

24 EXAMINATION BY MR. BRUNO:

25 Q. Well, you don't need to take it

1 alone. We've read a bunch of lines from this
2 thing. We know what their goal is, we know
3 what their rationale is. But you can't
4 interpret it?

5 MR. LONG:

6 Object to the form.

7 EXAMINATION BY MR. BRUNO:

8 Q. It's okay. You can't interpret
9 it; right?

10 A. I could interpret it. It may have
11 nothing to do with what they're doing.

12 Q. I'm asking for your interpretation.
13 I'm not saying you have to tell me whether it
14 has something to do with what they're doing. I
15 want to just understand the lingo.

16 A. Which part? Is there a word --

17 Q. The whole sentence.

18 A. Well, you know --

19 Q. If you can't, you can't. All
20 you've got to say is "I can't do it, sorry."
21 Mr. Bruno, I just can't do it."

22 A. I don't think it would be
23 appropriate to speculate about what they intend
24 to do based on --

25 Q. I'm not asking you to speculate;

1 I'm asking you to translate this for me.

2 MR. LONG:

3 Object to the form.

4 A. Well, that would be speculation.

5 EXAMINATION BY MR. BRUNO:

6 Q. It would be?

7 "Campaigns which rely on literal
8 depiction of smokers --"

9 A. Right.

10 Q. -- you don't know what that means?

11 A. Not to them, I don't.

12 Q. Okay. But "literal depiction," you
13 ~~don't know~~ what that means, either? Okay.

14 A. I would define it one way, someone
15 else would define it another way.

16 Q. Okay. All right. A lot of
17 different ways to view this material, huh?

18 A. What?

19 Q. All these words.

20 A. One sentence from a --

21 Q. Yes. Absolutely. Especially in
22 advertising. You just said another person
23 might take this sentence and see something
24 entirely different. You just told me that.

25 A. Okay.

1 Q. So that there's a lot of ways to
2 interpret this information, this advertising
3 stuff?

4 MR. LONG:

5 Object to the form.

6 EXAMINATION BY MR. BRUNO:

7 Q. Right? No?

8 A. Especially when it comes to
9 creative execution, yes.

10 Q. "Additionally, the exploratory...."
11 "The exploratory," do you know what that --
12 does that have a meaning?

13 MR. LONG:

14 Object to the form.

15 A. "Exploratory" what?

16 EXAMINATION BY MR. BRUNO:

17 Q. It doesn't say. It says, "the
18 exploratory will cover." I'm just wondering
19 if that's an advertising term of art. No?

20 A. In terms of research. But that's
21 not what it is, apparently.

22 Q. No.

23 A. Maybe it is and they left the word
24 out. I don't know what that is.

25 Q. Okay. They might have.

1 "Employ universal cues," what is
2 that? "Universal cues," is that an advertising
3 word?

4 MR. LONG:

5 Object to the form.

6 A. A cue is a stimulus property.

7 EXAMINATION BY MR. BRUNO:

8 Q. It's a stimulus property?

9 A. (Witness nods head affirmatively.)

10 Q. Okay. Good. What's a universal
11 cue?

12 A. As opposed to an idiosyncratic cue?

13 Q. Got me. I don't know. I'm just
14 reading it here. You don't know?

15 A. I don't know what they mean by
16 that, no.

17 Q. Okay. Fine.

18 Then it says, "Effectively
19 communicate the strategy." Okay. I can
20 understand that part, I think. But
21 "motivational value," do you know what that
22 means?

23 MR. LONG:

24 Object to the form.

25 A. To them, no.

1 EXAMINATION BY MR. BRUNO:

2 Q. Okay. No meaning to you, though?

3 A. Motivations are one thing, values
4 are another.

5 Q. I understand. But the phrase
6 doesn't compute?

7 A. (Witness shakes head negatively.)

8 Q. Okay. "That transcends
9 demographics," does that have any --

10 MR. LONG:

11 Object to the form.

12 EXAMINATION BY MR. BRUNO:

13 Q. -- particular meaning in the
14 advertising world that you can share with us?

15 A. I can give you an interpretation.
16 I don't know what they mean by that
17 specifically.

18 MR. BRUNO:

19 Okay. All right. Good. This is a
20 good time to break for lunch.

21 THE VIDEOGRAPHER:

22 We're going off the record at 12:44.
23 This is the end of Tape 2.

24 (Whereupon a lunch recess was taken
25 at this time from 12:44 o'clock p.m. to

1 1:34 o'clock p.m.)

2 THE VIDEOGRAPHER:

3 We are back on the record at 1:34.

4 This is the beginning of Tape 3.

5 EXAMINATION BY MR. BRUNO:

6 Q. All right. Ms. Henke, how did you
7 come to choose the subjects that you eventually
8 chose to put into your report?

9 A. I think it's a good way to start
10 with preliminaries and then move to specifics.

11 Q. I mean, the subjects, though, the
12 actual summary of opinions, how did you learn
13 what opinions would be required by your
14 employers?

15 MR. LONG:

16 Object to the form.

17 A. I submitted something that was much
18 smaller, I expanded.

19 EXAMINATION BY MR. BRUNO:

20 Q. Well, for example, how did you know
21 that advertising was at issue in this case?

22 A. Oh, goodness. Well, when I was
23 initially contacted about --

24 Q. Okay.

25 A. I don't even remember what case

1 it was now, maybe when I saw you before.
2 Certainly, the topic was advertising. And my
3 experience in that area was why I was being
4 sought, I assume.

5 Q. Well, I understand that.

6 A. Okay.

7 Q. But I'm trying to figure out the
8 particular issues. I mean, how did you know to
9 comment on, well, for example, mature markets?
10 I mean, how did you know that that's where they
11 wanted you to go?

12 How did you know, for example, to
13 talk about "The Market for Tobacco Products is
14 a Mature Market" or -- let's see another one
15 here -- "Effect of Advertising on Behavior of
16 Minors"? How did you know that that were the
17 areas that would be discussed?

18 MR. LONG:

19 Object to the form.

20 A. Well, most of my research deals with
21 most of what is in here.

22 EXAMINATION BY MR. BRUNO:

23 Q. Okay. Well, I guess I'm still
24 confused. How does your opinion relate to the
25 issues in the case? Or do you even know what

1 the issues in the case are?

2 MR. LONG:

3 Object to the forms of the
4 questions.

5 A. There are a lot of issues in this
6 case.

7 EXAMINATION BY MR. BRUNO:

8 Q. Okay. Well, that's easy. And in
9 general. And vague.

10 A. And, comma, and advertising is one
11 of them.

12 Q. All right. How do you know that?

13 A. In conversation.

14 Q. Okay. With whom?

15 A. Julia Tyler, possibly -- possibly
16 Jan Johnson, but I'm not sure about this case.

17 Q. That's fair.

18 So you understood in your
19 conversations with Julia Tyler, and perhaps
20 others, that in a very general sense
21 advertising was an issue in this case?

22 A. Well, I assumed that because I was
23 asked to appear. And that's my area of study.

24 Q. Understood.

25 Well, what was your understanding

1 of the particular area of advertising which was
2 at issue in this case?

3 A. When I was first asked if I would
4 want to participate? None until I received --

5 Q. Okay. So you learned from the
6 lawyers what the issues were going to be that
7 you were going to comment on?

8 A. Well, and --

9 MR. LONG:

10 Object to the form.

11 THE WITNESS:

12 Not from them. What I was going to
13 say is from -- I mean, I was sent a lot of
14 materials about the background of the
15 case, about the complaint. I'm not even
16 sure I'm using the right terms. But the
17 depositions.

18 EXAMINATION BY MR. BRUNO:

19 Q. Okay. All right. So you read the
20 complaint?

21 A. Yeah.

22 Q. You did?

23 A. I read some version of it, yes.

24 Q. All right. Well, how did you get
25 your understanding of the issues in the case

1 that relate to advertising? Where did that
2 come from?

3 A. I mean, I don't really remember
4 specifically where that would come from besides
5 the fact that they were asking me to become
6 involved.

7 Q. Well, what are the advertising
8 issues in the case? What's the contention
9 that you are responding to?

10 A. I am responding to the question of
11 how advertising works and what effect it has --

12 Q. All right. Wait, wait.

13 A. -- on decision-making.

14 Q. All right. How advertising works.
15 Is that what we're suing for, how advertising
16 works?

17 MR. LONG:

18 Object to the form.

19 A. I don't know what you're suing for.

20 EXAMINATION BY MR. BRUNO:

21 Q. Okay. Well, I want to understand
22 how your opinion relates to what we're suing
23 for, if they bothered to tell you that.

24 MR. LONG:

25 Object to the form.

1 A. My understanding is that these
2 plaintiffs --

3 EXAMINATION BY MR. BRUNO:

4 Q. Okay.

5 A. -- represent a class --

6 Q. Okay.

7 A. -- who are in Louisiana who have
8 smoked --

9 Q. Who claim what with regard to
10 advertising?

11 A. I'm not sure there's a specific
12 claim regarding advertising in the complaint.

13 Q. Okay. Well, so what does your
14 opinion have to do with this case?

15 MR. LONG:

16 Object to the form.

17 A. If you're interested in effective
18 advertising.

19 EXAMINATION BY MR. BRUNO:

20 Q. Well, you're defending, you see, so
21 you have to sort of know what you're defending
22 against; don't you agree? Do you have any clue
23 what you're defending against?

24 MR. LONG:

25 Object to the form.

1 A. My understanding is that --

2 MR. BRUNO:

3 I'm dying to write something down.
4 Go ahead.

5 MR. LONG:

6 Start writing.

7 MR. BRUNO:

8 Okay. There's air.

9 THE WITNESS:

10 -- that the consumer decision-making
11 process is an important part of this case.
12 It might be a minor part of the case.
13 There are many other issues involved in
14 this case.

15 EXAMINATION BY MR. BRUNO:

16 Q. All right. Wait. That I'm suing
17 because of the consumer decision-making
18 process?

19 A. No, I said that I assume that I am
20 being asked to testify because the consumer
21 decision-making process is an important part of
22 this case. It's only one of the issues in the
23 case.

24 Q. All right. Well, what part of the
25 consumer decision-making process is at issue in

1 this case?

2 A. What influence tobacco promotion
3 may or may not have had on --

4 Q. Okay.

5 A. -- decisions to smoke.

6 Q. All right. Well, we're getting
7 closer to something that makes sense to me now.
8 What influence tobacco promotion had on the
9 plaintiffs' decision to smoke?

10 A. That sounds all right.

11 Q. That sounds all right?

12 A. I think so.

13 Q. Okay. All right. Now, when we
14 talk about tobacco promotion, are you limiting
15 your discussion to the -- Let me make sure I'm
16 using your right words here. Okay. Well, let
17 me ask you this. Are you familiar with the
18 Tobacco Institute and C.T.R.?

19 A. Yes.

20 Q. Okay. Was that a hard question?

21 A. Well, I was trying to remember what
22 C.T.R. stood for.

23 Q. Okay. Gary will tell you.

24 All right. And is any part of
25 your opinion related to the public publicity

1 campaigns conducted by either C.T.R. or
2 T.I.R.C. or any of those, you know, any of the
3 tobacco consortiums?

4 MR. LONG:

5 Object to the form of the question.

6 A. It's related to publicity campaigns.

7 EXAMINATION BY MR. BRUNO:

8 Q. Well, do you know what publicity
9 campaigns C.T.R. or T.I.R.C. or --

10 MR. LONG:

11 T.I. is what you're looking for.

12 MR. BRUNO:

13 T.I. Yeah, I want to make sure I
14 get them all, man. I tell you, I'm
15 drawing blanks here.

16 EXAMINATION BY MR. BRUNO:

17 Q. -- Tobacco Institute engaged in
18 over the years?

19 A. I'm familiar with some pieces of
20 it. I've looked at some documents from
21 previous cases.

22 Q. Okay. All right. Now, those, of
23 course, would not be advertising campaigns;
24 right?

25 A. Well, it depends on which part

1 you're talking about. If you're talking
2 specifically about publicity campaigns, that
3 would automatically not be advertising.

4 Q. All right. Well, to my memory,
5 T.I. or T.I.R.C. or C.T.R. didn't advertise for
6 smoking. They did, however, do some what I
7 thought would be a better -- I mean, maybe I'm
8 wrong. I mean, what do you understand that
9 they did with regard to media, period? Let's
10 do it that way.

11 A. I can't recite to you what their
12 campaigns were or what --

13 Q. Well, can you tell me whether they
14 were more publicity campaigns as opposed to
15 advertising campaigns?

16 A. Probably not. I'm not sure about
17 the extent to which they purchased media space.

18 Q. Well, they didn't identify the
19 sponsor; did they?

20 A. I'm not sure --

21 Q. You're not sure. In that case --

22 A. -- if it's part of the campaign
23 you're talking about or if --

24 Q. Well, for example, The Frank
25 Statement, you've heard of that?

1 A. I have.

2 Q. Okay. Is that a publicity campaign
3 or an advertising campaign?

4 MR. LONG:

5 Object to the form.

6 A. Space which was purchased in
7 newspapers to announce The Frank Statement as
8 sponsored by the T.I.R.C. -- I think I got that
9 one right -- would be advertising.

10 EXAMINATION BY MR. BRUNO:

11 Q. Okay. So what were they
12 advertising?

13 A. It's not brand advertising.

14 Q. No, I know. So what were they
15 advertising?

16 A. But it is a message.

17 Q. A message.

18 Why wouldn't there be more
19 publicity? They were trying to get a message
20 out that smoking wasn't -- didn't cause the
21 ill health effects?

22 A. Only because of the sponsorship
23 identification.

24 Q. Oh, that's the sole determinant of
25 the distinction is the fact that they say --

1 A. Well, no.

2 Q. -- that it was them who bought it?

3 A. And, also, that this space was
4 purchased.

5 Q. Okay. That's all right. So any
6 time space is purchased, you're going to call
7 that advertising?

8 A. Well, the advertiser has control
9 over placement.

10 Q. Okay. Well, without regard to
11 whatever you want to call it, you do recognize
12 that there's a lot of information that has been
13 conveyed through the media sponsored by tobacco
14 about the health effects of smoking; right?

15 MR. LONG:

16 Object to the form.

17 EXAMINATION BY MR. BRUNO:

18 Q. Over the past 30 or 40 years?

19 A. In many forms, yes.

20 Q. Okay. Have you studied that?

21 A. I've looked at a lot of, yes,
22 materials.

23 Q. All right. Well, do you have any
24 opinions as to whether or not these messages
25 related to smoking and health, in particular?

1 A. I thought you just told me that
2 they did. I thought that's what we were
3 discussing.

4 Q. What? What's your question?

5 A. Messages.

6 MR. LONG:

7 Go ahead. She's with you.

8 MR. BRUNO:

9 Okay.

10 THE WITNESS:

11 Okay.

12 MR. BRUNO:

13 I thought she was, too. Let's see.
14 See, we got lost.

15 EXAMINATION BY MR. BRUNO:

16 Q. Okay. The question still is do you
17 have any opinions related to the smoking and
18 health issue in particular in this case?

19 MR. LONG:

20 I object.

21 A. I don't recall hearing that, I'm
22 sorry.

23 EXAMINATION BY MR. BRUNO:

24 Q. I'll read it to you.

25 "All right. Well, do you have any

1 opinions as to whether or not these messages
2 that were -- that are related to smoking and
3 health?" I mean, I understand what I've seen
4 in your report regards brand switching and
5 advertising the product to the smoking
6 consumer, okay?

7 A. (Witness nods head affirmatively.)

8 Q. And I don't recall -- maybe I
9 missed something -- that you had any opinions
10 about smoking and health messages. So I'm
11 asking you do you have any opinions about
12 smoking and health messages?

13 MR. LONG:

14 Object to the form.

15 A. If you could be more specific. What
16 smoking messages? What health messages? By
17 whom? In what form?

18 EXAMINATION BY MR. BRUNO:

19 Q. You don't know what a smoking and
20 health message is?

21 A. No, I don't.

22 Q. The Frank Statement, is that a
23 smoking and health message?

24 A. (Witness nods head affirmatively.)

25 Q. It wasn't intended to sell

1 cigarettes; right?

2 A. Yes.

3 Q. It was intended to persuade people
4 that there were no ill effects associated with
5 smoking?

6 A. Yes.

7 Q. Well, do you see that as like a
8 reasonable differentiation between selling
9 cigarettes and the smoking and health message?

10 A. Well, not really. Because
11 cigarette brand advertising now has health
12 messages, smoking and health messages.

13 Q. As their primary component? I
14 don't think so.

15 A. As a consistent component.

16 Q. A consistent component required by
17 the government. That's not what I'm talking
18 about.

19 MR. LONG:

20 Object and move to strike.

21 EXAMINATION BY MR. BRUNO:

22 Q. I'm trying to see if there is a
23 reasonable distinction to be made between
24 cigarette advertising that promotes the sale of
25 the product as opposed to cigarette advertising

1 which addresses the question of smoking and
2 health apart from the government-mandated
3 warning message. And if you see no distinction
4 at all, that's fine.

5 A. There's a big distinction.

6 MR. LONG:

7 Object to the form of the question.

8 EXAMINATION BY MR. BRUNO:

9 Q. There is a big distinction. That's
10 what I thought from the beginning. It always
11 takes us a long time to get to the point.

12 MR. LONG:

13 Object to the comment and move to
14 strike. We'd get there quicker without
15 the comments.

16 MR. BRUNO:

17 I don't know. We'd get there
18 quicker if we'd get an answer to the
19 question.

20 EXAMINATION BY MR. BRUNO:

21 Q. All right. So you recognize that
22 there's a distinction between advertising to
23 sell the cigarette and advertising which
24 conveys a smoking and health message; right?

25 A. There's a distinction, yes.

1 Q. What is the distinction?

2 MR. LONG:

3 Object to the form.

4 A. The first you mentioned is focused
5 on brands. The second is not, as you've
6 described it.

7 EXAMINATION BY MR. BRUNO:

8 Q. Okay. And what's it focused on?

9 A. It depends on what message you are
10 specifically talking about.

11 Q. Okay. Well, can we agree that it's
12 focused on persuading people that cigarette
13 smoking is not bad for their health?

14 MR. LONG:

15 Object to the form.

16 A. That would be one message that is
17 related to smoking and health. There are lots
18 of messages related to smoking and health.

19 EXAMINATION BY MR. BRUNO:

20 Q. Give me some other examples.

21 A. That cigarette smoking is dangerous
22 to your health.

23 Q. Okay. And cigarette companies have
24 advertised that smoking is bad for your health?

25 A. In the warning labels in their ads.

1 Q. Outside of the warning labels,
2 which we both know is government mandated.

3 MR. LONG:

4 Object. Move to strike.

5 A. And there is a campaign, yes. I
6 mean, I've seen a few ads regarding smoking and
7 health recently.

8 EXAMINATION BY MR. BRUNO:

9 Q. That do what?

10 A. But I can't give you verbatim on
11 what they say.

12 Q. No, in a general sense, what do
13 they say? They talk about what exactly? I
14 mean, you're telling me that you cannot, in a
15 broad statement, say that they regard smoking
16 and health; you can't tell me that, in a broad
17 statement, they regard that cigarette smoking
18 is not bad for your health. Well, at least
19 you've got two categories. I believe you said
20 there are two. Smoking is not bad for your
21 health and smoking is bad for your health,
22 those are two categories that I think you
23 identified.

24 Any others?

25 A. Any other categories?

1 Q. Yes. Smoking and health
2 advertising.

3 A. I don't know what specifically is
4 said. I don't know if specifically --

5 Q. I didn't ask you that.

6 A. Well, so I don't know if there are
7 other categories. I mean, if you want to talk
8 about implications and verbatim statements
9 about it being bad, verbatim statements not to
10 do it, verbatim statements to do something, I
11 mean, these are all, you know, categories we're
12 making up as we go along.

13 Q. Well, I'm not making up any
14 categories. You seem to be troubled by the
15 discussion about categories. And I'm wondering
16 if you can categorize the smoking and health
17 messages that tobacco has been putting out for
18 the past 30 years as being messages regarding
19 the fact that cigarette smoking is not bad for
20 your health, if that's an appropriate way to
21 generalize it? If not, fine.

22 MR. LONG:

23 Object to the form and object to the
24 comments and move to strike.

25 EXAMINATION BY MR. BRUNO:

1 Q. And if you can't categorize them
2 that way, how would you categorize them?

3 MR. LONG:

4 Same objection.

5 A. I thought you were asking about
6 antismoking messages.

7 EXAMINATION BY MR. BRUNO:

8 Q. No. I was asking you about smoking
9 and health advertising put out by the cigarette
10 industry.

11 A. Well, the only thing I'm familiar
12 with at this point that fits that description
13 is something that I'm not extremely familiar
14 with because I have seen only a few of the
15 commercials.

16 Q. You're familiar with The Frank
17 Statement?

18 A. Yes.

19 Q. Well, then, that's not true. You
20 are familiar with The Frank Statement. And so,
21 therefore, you are familiar with advertising
22 that conveys the message that smoking doesn't
23 hurt you; right?

24 A. Yes, but I thought we had already
25 discussed that.

1 MR. LONG:

2 Object to the form of the question
3 and the speech.

4 EXAMINATION BY MR. BRUNO:

5 Q. No, no. The question is, and I'm
6 trying to get -- and see if I can get you to
7 answer the question, which is whether or not
8 you can categorize smoking and health
9 advertising in any way?

10 MR. LONG:

11 Object to the form.

12 EXAMINATION BY MR. BRUNO:

13 Q. And I suggested to you could it
14 be possible to categorize smoking and health
15 advertising in terms of sending the message
16 that smoking doesn't hurt your health, like
17 The Frank Statement did?

18 MR. LONG:

19 Object to the form.

20 A. Do these categories have an end
21 point or purpose? And then I can maybe design
22 categories that would be more meaningful.

23 EXAMINATION BY MR. BRUNO:

24 Q. The end purpose is simply just to
25 distinguish them from advertising which sells

1 brands.

2 A. So this would be any advertising
3 produced by a tobacco-related entity which does
4 not mention brands but mentions --

5 Q. Smoking and health?

6 A. -- health issues or smoking and
7 health. That's one big category.

8 Q. I know. You recognize that as a
9 category?

10 MR. LONG:

11 Object to the form.

12 A. If you would like me to discuss
13 something defined by that, we can call that
14 a category.

15 EXAMINATION BY MR. BRUNO:

16 Q. I would like to. But I'd like to
17 get to the category first so that we don't play
18 games like we've been doing all day long. I'm
19 trying to get away from that.

20 MR. LONG:

21 Object. Move to strike.

22 MR. BRUNO:

23 Well, you can move to strike it all
24 day long. It's been happening all day
25 long.

1 MR. LONG:

2 I intend to move to strike all day
3 long.

4 MR. BRUNO:

5 Okay. Good.

6 MR. LONG:

7 Apparently, I'm going to have to.

8 MR. BRUNO:

9 You can clutter up the record and
10 say whatever you want, let me know when
11 you're done.

12 MR. LONG:

13 Okay.

14 MR. BRUNO:

15 Okay.

16 EXAMINATION BY MR. BRUNO:

17 Q. All right. So we agree that there
18 is a category of cigarette advertising that
19 relates to smoking and health that doesn't
20 advertise brands?

21 MR. LONG:

22 Object to the form.

23 A. There is no category before we just
24 made it up in here.

25 EXAMINATION BY MR. BRUNO:

1 Q. There's no category?

2 A. So I'm not going to agree that that
3 exists. We're making it up here.

4 Q. Okay. Has the cigarette industry
5 advertised about smoking and health in the past
6 35 years?

7 A. Yes.

8 Q. Okay. How should I characterize
9 that? Is it subject to any kind of
10 characterization?

11 MR. LONG:

12 Object to the form. Are you asking
13 if there's a recognized in the profession
14 categorization of that type of advertising

15 RE --

16 EXAMINATION BY MR. BRUNO:

17 Q. Yes. So that I can distinguish it
18 from the advertising that they do to sell their
19 cigarettes, that is, the brand business. I'm
20 just trying to differentiate between the two,
21 that's all I'm trying to do.

22 A. I'm not aware of a term that
23 describes that specifically, no.

24 Q. Okay. Have you done any research
25 at all on the advertising that cigarette

1 companies have done on smoking and health?

2 A. Have I collected data on that
3 issue? No, I don't think so.

4 Q. All right. Do you have any
5 opinions as to the impact of the advertising
6 that the cigarette manufacturers have done
related to smoking and health?

7 A. To the extent that it reflects
8 everything I'm talking about in this report.

9 Q. Well, show me where in this report
10 you talk about smoking and health then.

11 A. Yes. Any message that's carried in
12 nonpersonal media will fall into the category
13 of advertising if the sponsor's identified.

14 Q. Okay. Where do you talk about
15 smoking and health advertising in here?

16 A. Let's see.

17 MR. LONG:

18 I think he's asking you other than
19 brand advertising, your opinions include
20 statements made by tobacco companies to
21 the public about smoking and health in
22 general?
23

24 MR. BRUNO:

25 Yep.

1 THE WITNESS:

2 All right. My opinion stands with
3 the recognition of those types of
4 advertising and promotion, which don't
5 change my opinion. Comma, which don't
6 change my opinion.

7 EXAMINATION BY MR. BRUNO:

8 Q. Well, that's fine. But I still
9 don't know if you have any opinions about
10 smoking and health advertising in particular.

11 A. Those opinions wouldn't be any
12 different from my opinions on advertising.

13 Q. Number 21, "Sources Other Than
14 Advertising and Promotion Significantly
15 Influence Underage Tobacco Use." Is one of
16 those sources health, smoking and health
17 messaging by tobacco companies?

18 A. I don't know where I've said that
19 Number 21.

20 Q. I'm reading this right here.
21 "Sources Other Than Advertising and Promotion
22 Significantly Influence Underage Tobacco Use."
23 And here's the question: Is one of those
24 sources smoking and health advertising done by
25 the tobacco industry?

1 A. That's not the copy I have. This
2 is not a -- This is not the same.

3 MR. LONG:

4 You're on Page 21?

5 MR. BRUNO:

6 Page 21.

7 THE WITNESS:

8 Oh.

9 MR. LONG:

10 Page 21?

11 THE WITNESS:

12 Sorry. Not numbered paragraph.

13 MR. BRUNO:

14 I'm sorry. Page 8.

15 Page 8, what am I reading from with
16 this --

17 THE WITNESS:

18 I don't know.

19 MR. LONG:

20 What are you reading from?

21 MR. BRUNO:

22 I don't know.

23 MR. LONG:

24 That's Paragraph 21?

25 MR. BRUNO:

1 Yes.

2 THE WITNESS:

3 That's not what mine says. Is that
4 what yours says?

5 MR. LONG:

6 No. Oh, he's looking at the title.

7 THE WITNESS:

8 Oh, the big picture.

9 MR. LONG:

10 I mean, he's looking at --

11 THE WITNESS:

12 The big picture.

13 MR. LONG:

14 No, no, here's what he's looking at.

15 THE WITNESS:

16 The big picture. Okay.

17 MR. LONG:

18 Yeah.

19 MR. BRUNO:

20 Oh, God forgive me. I mean, I'm
21 just reading the page.

22 MR. LONG:

23 He forgives you.

24 MR. BRUNO:

25 Okay. Good. I mean, that's why

1 this deposition has been so hard. It's
2 right there in front of us.

3 THE WITNESS:

4 All right.

5 MR. LONG:

6 Thank you, God.

7 THE WITNESS:

8 And you want to know what the other
9 sources are?

10 EXAMINATION BY MR. BRUNO:

11 Q. No, I want to know whether you
12 considered smoking and health advertising as
13 at all in regard to this statement?

14 A. Yes.

15 Q. Okay. So what studies did you
16 review that relate to smoking and health
17 advertising?

18 A. We can start with Pechmann.

19 Q. All right. What does Mr. Pechmann
20 have to say?

21 A. Cornelia Pechmann says, Connie says
22 she -- She looked at a lot of antismoking PSA
23 type programs to see what the impact of those
24 were.

25 Q. All right. She looked at

1 antismoking?

2 A. It's actually not in here. Yes,
3 she did.

4 Q. Good. That wasn't the question.
5 The question was smoking and health
6 advertising by the tobacco industry, that's
7 what we were talking about.

8 A. Right.

9 Q. That's why I tried to categorize it
10 for you. But you wouldn't let me do that, you
11 see? So because you haven't let me do that,
12 I've got to come back with each question and
13 say I am talking about tobacco advertising that
14 promotes the fact that smoking doesn't hurt
15 you. Which we acknowledge that they've done
16 for 35 years, okay?

17 A. Okay. I don't have any particular --
18 MR. LONG:

19 Object to the question. Object to
20 the comments and move to strike.

21 EXAMINATION BY MR. BRUNO:

22 Q. Well, do you even know?

23 A. I don't have a particular study
24 that --

25 Q. Well, let's back up.

1 Do you agree or disagree that for a
2 period of time, the tobacco industry advertised
3 that smoking didn't hurt you?

4 A. I don't recall that being part of
5 The Frank Statement that you're talking about.
6 I think there was an issue --

7 Q. That's not part of The Frank
8 Statement?

9 A. That it doesn't hurt you? There's
10 a question about -- The jury is out, in other
11 words. It's not -- I don't think it's a --

12 Q. The jury is out?

13 A. -- a statement that, unequivocally,
14 smoking does not hurt you.

15 Q. Okay. All right. So your belief
16 is that The Frank Statement does not convey the
17 message that smoking doesn't hurt you? Is that
18 your testimony?

19 MR. LONG:

20 Object to the form.

21 A. It would depend on who's reading
22 that.

23 EXAMINATION BY MR. BRUNO:

24 Q. I'm asking you. Your testimony is
25 The Frank Statement does not convey the message

1 that smoking doesn't hurt you?

2 A. Would you like to let me read it
3 again so I can be sure I'm not misstating?

4 Q. You seemed sure of yourself a few
5 moments ago.

6 MR. LONG:

7 Object to the form. Move to strike.

8 EXAMINATION BY MR. BRUNO:

9 Q. Do you need to read it again to
10 satisfy yourself that it doesn't say that?

11 MR. LONG:

12 Joe, she just asked you if she could
13 read it. If you want her to read it, read
14 it. Let's just don't engage in badgering
15 the witness here.

16 MR. BRUNO:

17 I'm not badgering the witness.

18 MR. LONG:

19 Sure, you are. She just said if you
20 want an answer, let me read it. You're
21 not doing that. You're just going to talk
22 about it.

23 MR. BRUNO:

24 No, I just want to get an answer to
25 my question. I just want to see if we can

1 get this thing done, that's all.

2 EXAMINATION BY MR. BRUNO:

3 Q. Okay. So your testimony is that
4 you can't say whether or not The Frank
5 Statement conveys the message that smoking
6 doesn't hurt you unless you read it?

7 A. No. If you want my response to it,
8 I can read it. But if you want to know what
9 message it conveys, I'm going to have to ask
10 the people who read it and find out what effect
11 it has had on them and what message they think
12 it conveys.

13 Q. I asked you what message it
14 conveyed to you. That was my question. And if
15 you think you've got to read it again, that's
16 fair, okay?

17 A. Good. Because I'd hate to
18 misstate.

19 Q. I know you hate to misstate, but
20 that was -- you didn't answer the question.
21 The question is what does it mean to you?

22 MR. LONG:

23 Joe, she's asked you -- told you
24 twice that she needs to read it again
25 before she answers that.

1 MR. BRUNO:

2 No, I didn't hear that. I'm sorry.

3 I'm trying to clarify that right now.

4 EXAMINATION BY MR. BRUNO:

5 Q. Are you telling me that you can't
6 tell me what it means to you without reading
7 it?

8 A. I would like to see it and be
9 specific about what I'm reading --

10 Q. All right. That's fine.

11 A. -- in order to give you a response
12 to it.

13 Q. Okay. Good.

14 Are you familiar with any tobacco
15 advertising which suggested that smoking
16 doesn't hurt you? Or do you need to read every
17 last one of those?

18 MR. LONG:

19 Object to the form.

20 A. As a matter of fact -- I mean, the
21 only thing I can continue to come up with are
22 examples that refer to health effects, so --
23 And bring up the health effects and talk about
24 product differences in terms of, for example,
25 soothing to your throat --

1 EXAMINATION BY MR. BRUNO:

2 Q. That's fine.

3 A. -- less irritating.

4 Q. So what are you saying to me? That
5 you cannot think of any advertising at all
6 where the cigarette manufacturers that
7 suggested that smoking does not hurt you?

8 A. Well, the suggestions that I
9 continue to come up with include recognition
10 that smoking does hurt. So I'm trying to find
11 something that will fit into your --

12 Q. Well, if there's none, there's
13 none.

14 A. Okay.

15 Q. If you can think of none, then the
16 answer is: "Mr. Bruno, I cannot think of any
17 advertising that the cigarette manufacturers
18 have ever done which suggests that smoking
19 doesn't hurt you."

20 MR. LONG:

21 Object to the form.

22 EXAMINATION BY MR. BRUNO:

23 Q. If that's what you're saying, just
24 say it.

25 MR. LONG:

1 Object to the form.

2 A. I don't recall any particular ones
3 right now. There could be something out there.
4 I haven't seen it all.

5 EXAMINATION BY MR. BRUNO:

6 Q. There could be something out there?

7 A. Sure. I haven't seen it all.

8 Q. All right. Well, have you
9 evaluated -- You, obviously, then have not
10 evaluated smoking and health messages by the
11 tobacco industry which may suggest that smoking
12 doesn't hurt you; right?

13 MR. LONG:

14 Object to the form.

15 EXAMINATION BY MR. BRUNO:

16 Q. If you don't even know it's out
17 there?

18 A. No, I may have looked at some of
19 this. I don't know what specifically you want
20 me to refer to. I don't have in mind a
21 particular campaign to state that smoking does
22 not hurt you. And the examples I keep coming
23 up with are the opposite, so --

24 Q. What examples are the opposite?
25 And when did they come out?

1 A. Oh, for years. When the filter
2 came out, when the menthol came out, they
3 were --

4 Q. Take them one at a time. When the
5 filter came out, what was the message?

6 A. Well, there were messages regarding
7 less irritation and lower tar and nicotine
8 and --

9 Q. All right. Lower tar and nicotine.
10 That's a health message?

11 A. Given the context, yes.

12 Q. What do you mean, "Given the
13 context"?

14 A. Given the larger social environment
15 in which that would have been interpreted, yes.

16 Q. Well, who would have told the
17 larger social environment about the impact of
18 nicotine and tar? Where would that have come
19 from?

20 A. Well, it has been in everything
21 from columns such as "Dear Ann Landers" to
22 health columns to television stories to your
23 mother telling you not to smoke. So any of a
24 number of sources.

25 Q. And what exactly is that informa-

1 tion that everybody seems to know about? What
2 is tar?

3 MR. LONG:

4 Object to the form.

5 A. I have no idea.

6 EXAMINATION BY MR. BRUNO:

7 Q. You have no idea what tar is and,
8 yet, you're telling me that from Mama and "Dear
9 Ann" and "Dear Abby," everybody in the world
10 knows what that means but you don't yourself
11 don't even know what tar is?

12 MR. LONG:

13 Object to the form.

14 A. The important part is that --

15 EXAMINATION BY MR. BRUNO:

16 Q. Okay. What's the important part?

17 A. -- it's viewed as a negative, it is
18 viewed as something potentially bad for you.

19 Q. But we don't know what it is?

20 A. Probably not.

21 Q. Probably not.

22 Okay. And your testimony is that
23 people view tar as being something bad for
24 them, but they don't know what it is?

25 MR. LONG:

1 Object to the form.

2 EXAMINATION BY MR. BRUNO:

3 Q. Right?

4 A. As it is included in ads to address
5 an issue of concern that people had and to
6 differentiate products on the basis of
7 improving by lowering tar, yes, it's seen as
8 a negative. It's what you'd call the prime
9 prospective's problem. It's what you solve with
10 your product or service.

11 Q. Yes. Well, so who identified the
12 problem?

13 A. I don't know who, initially, who
14 identified the problem.

15 Q. Okay. Well, how does the public --
16 I mean, help me understand this -- how did the
17 public get the message about the dangers
18 associated with tar and the fact that lower tar
19 meant something? And then, further, does lower
20 tar, in fact, mean anything?

21 MR. LONG:

22 Object to the form.

23 A. That question regarding whether
24 it means anything, I'm not qualified to answer.
25 That's your medical expert. This is something

1 that I'm talking about in terms of consumers'
2 perceptions.

3 EXAMINATION BY MR. BRUNO:

4 Q. Okay. Let's talk about consumers'
5 perceptions. You would agree with me that if
6 the consumer believes that tar is bad, and if
7 you tell the consumer your cigarette has less
8 tar, then you're telling him that your
9 cigarette is safer than other cigarettes that
10 have more tar; aren't you?

11 MR. LONG:

12 Object to the form.

13 A. And, yet, you're addressing the
14 issue that there is danger associated with the
15 use of the product and that --

16 EXAMINATION BY MR. BRUNO:

17 Q. And at the same time, you're saying
18 that it's less dangerous?

19 MR. LONG:

20 Object to the form.

21 EXAMINATION BY MR. BRUNO:

22 Q. Right?

23 A. But admitting that -- the danger
24 that exists because there still is tar in the
25 product.

1 Q. Right.

2 So you're telling me that it would
3 have no impact on the consumer to tell him that
4 it's less dangerous than something else? Why
5 tell him then?

6 MR. LONG:

7 Object to the form.

8 EXAMINATION BY MR. BRUNO:

9 Q. What's the purpose?

10 A. This is a way to differentiate your
11 product from the others.

12 Q. Right. And get people to choose
13 yours over somebody else's; right?

14 A. To choose your brand.

15 Q. And you're going to choose,
16 logically, the ones that is perceived to be
17 safer?

18 MR. LONG:

19 Object to the form.

20 A. Maybe. It depends on who's buying.

21 EXAMINATION BY MR. BRUNO:

22 Q. Right.

23 What do you mean, "It depends on
24 who's buying it"? Why would you advertise it
25 if you don't know that a perception of safer

1 cigarette would sell?

2 MR. LONG:

3 Object to the form.

4 A. It depends on the target and what
5 they are seeking.

6 EXAMINATION BY MR. BRUNO:

7 Q. Well, if the cigarette companies
8 are advertising that it has less tar, then
9 can't we logically conclude that they have
10 determined that people are interested in a
11 safer cigarette?

12 MR. LONG:

13 Object to the form.

14 A. And at the same time, there are
15 cigarette brands that continue to be produced
16 without filters and without menthol because
17 those are for other segments of the market who
18 have different needs and different motivation.

19 EXAMINATION BY MR. BRUNO:

20 Q. We're not talking about the other
21 segments. We're talking about the target, the
22 target audience being those who want a safer
23 cigarette.

24 A. And I'm saying that you asked
25 whether cigarette companies were all doing the

1 same thing, basically. And I want to point out
2 that --

3 Q. No, no, I didn't ask that.

4 A. -- different targets have different
5 needs.

6 Q. I asked -- No. No, ma'am.

7 I said with regard to specifically
8 the cigarettes that you identified for me that
9 were identified by the tobacco industry as
10 having less tar, that those were targeted to
11 people who had concerns for their health?

12 A. Yes.

13 Q. Yes. Okay.

14 A. I should also mention health and
15 perhaps flavor.

16 Q. Really? How does low tar affect
17 flavor?

18 A. I'm not sure that it does or it
19 doesn't, but --

20 Q. Well, if the message only said less
21 tar, what would it have to do with flavor?

22 A. Some of the ads do mention flavor.

23 Q. Some don't?

24 A. That's true.

25 Q. The ones that don't are

1 specifically speaking to the target audience
2 that is interested in a safer cigarette, isn't
3 that true, based upon what you've told us?

4 MR. LONG:

5 Object to the form. Move to strike
6 counsel's comments.

7 A. Not necessarily.

8 EXAMINATION BY MR. BRUNO:

9 Q. Not necessarily?

10 So if the only thing they said
11 was less tar, they would not necessarily be
12 targeting individuals who were looking for a
13 safer cigarette, according to you?

14 MR. LONG:

15 Object to the form.

16 A. That's right. Not necessarily.

17 EXAMINATION BY MR. BRUNO:

18 Q. Not necessarily.

19 They're just saying it for the heck
20 of it?

21 A. I doubt that.

22 Q. I doubt that.

23 They probably have a pretty good
24 clear goal in their mind, don't they, from all
25 the documents that they've seen?

1 MR. LONG:

2 Object to the form.

3 EXAMINATION BY MR. BRUNO:

4 Q. Right?

5 A. What I'm saying is that people can
6 interpret low tar to mean any of a number of
7 things.

8 Q. We didn't ask about people's
9 interpretation. We asked about what was
10 intended by the manufacturer, which is what
11 we were talking about.

12 A. Intent is not what I'm talking
13 about. I'm talking about perceptions of
14 consumers.

15 Q. And the perceptions of consumers is
16 what the tobacco companies use when they design
17 their advertising campaigns; right?

18 MR. LONG:

19 Object to the form.

20 EXAMINATION BY MR. BRUNO:

21 Q. Yes?

22 A. Consumer perceptions are key --

23 Q. Key. Absolutely.

24 A. -- to developing --

25 Q. Right.

1 A. -- any advertising or marketing
2 campaign.

3 Q. Exactly.

4 And if they only advertised lower
5 tar, that would clearly indicate to you, who
6 is knowledgeable in this field, that they were
7 targeting people who were interested in their
8 health?

9 MR. LONG:

10 Object to the form.

11 A. It would indicate that lower tar
12 would be a way to differentiate yourself from
13 the other competing brands. And what that
14 means to the consumer could be -- maybe it
15 means a better taste, maybe it means a safer
16 cigarette.

17 EXAMINATION BY MR. BRUNO:

18 Q. Okay. But maybe it doesn't. Maybe
19 it doesn't mean a safer cigarette; right? So
20 maybe it has no implication about health. You
21 just told me that. Right?

22 A. That could be.

23 Q. Could be. Okay. Good. Thank you.

24 All right. So what influence
25 on the cigarette-consuming public has the

1 tobacco's position that smoking is not
2 addictive had in the past 35 years?

3 MR. LONG:

4 Object to the form.

5 A. I don't know.

6 EXAMINATION BY MR. BRUNO:

7 Q. No clue?

8 A. What impact has it had on them?

9 Q. Yes. What impact? Let's see.

10 Maybe not. Let me use the right words. Hold
11 on. Maybe the better word is "effect" since
12 you use "effect." You talk about the effect
13 of advertising and promotion, okay? So what
14 effect has there been on the smoking public by
15 the cigarette manufacturers' advertising and
16 promotion that cigarettes are not addicting?

17 MR. LONG:

18 Object to the form of the question.

19 A. Effect in terms of what?

20 EXAMINATION BY MR. BRUNO:

21 Q. In terms of use, in terms of market
22 share, in terms of anything.

23 A. I don't really know if you can
24 answer that.

25 Q. It hasn't been studied?

1 A. You want to know the effect of some
2 specific campaign? You want to know the effect
3 of some specific message?

4 Q. Yes, I do. The message, the
5 specific message that I'm interested in is
6 the message that has been conveyed -- Or do
7 we disagree? Has the tobacco industry
8 consistently had the position that tobacco use,
9 I'm sorry, cigarette use is not addicting up
10 until the last -- I don't know -- six or eight
11 months?

12 MR. LONG:

13 Object to the form.

14 A. You know, this will depend on who
15 sees the communication; how they judge the
16 source of the communication; what their values,
17 attitudes, beliefs and behaviors are at the
18 time that they receive the communication. And
19 that is, obviously, going to differ from person
20 to person.

21 EXAMINATION BY MR. BRUNO:

22 Q. Now, you say who sees the source.
23 You're telling me that for that kind of message
24 only, it's got to be a direct communication
25 between the person issuing the message to the

1 person receiving the message?

2 A. Well, communication goes from a
3 source to a receiver.

4 Q. But can it go from a receiver to a
5 third person?

6 A. Well, then, that's another
7 communication --

8 Q. Well, I know.

9 A. -- from a person to a person. Is
10 that what you mean?

11 Q. But the intent is the same. You're
12 still reaching everybody. We've already gone
13 through that again with these opinion leaders
14 and other agents of socialization.

15 Remember that?

16 A. Yes.

17 Q. Okay. And we've already
18 established that you can use those folks to
19 convey messages?

20 MR. LONG:

21 Object to the form.

22 A. Who's "you" can use those folks?
23 Because --

24 EXAMINATION BY MR. BRUNO:

25 Q. Who's you? The sponsor, the

1 advertiser.

2 A. Okay. And I don't believe I said
3 that.

4 Q. That's who we were talking about.

5 A. And I don't believe I said that. I
6 think that what we talked about earlier was the
7 fact that you, the sponsor, don't get to decide
8 who the opinion leaders are. But your consumer
9 is the one who decides to whom do I go for
10 information and advice on this topic.

11 Q. Right. We're well beyond all that.
12 We've identified -- We did our market research.
13 We know the consumer chooses them. But as the
14 sponsor and the advertiser, I've done my market
15 research to find out who they are. You told me
16 that's what they do.

17 You go out and find -- You try to
18 identify in your target group who the opinion
19 leaders are. You go to your target -- You try
20 to find out who the other agents of
21 socialization are.

22 Remember that?

23 MR. LONG:

24 Object to the form.

25 EXAMINATION BY MR. BRUNO:

1 Q. You told me you do that; right?

2 A. I didn't tell you I do that.

3 Q. You didn't say that that's done in
4 the industry? You never do that?

5 A. If you were to try to identify
6 opinion leaders, you would need to redo your
7 study for --

8 Q. I didn't ask you about how. I said
9 do you do it?

10 A. I'm sure all kinds of research is
11 being done. I don't think that is a
12 traditional approach --

13 Q. It's not.

14 A. -- to conducting research.

15 Q. Is that why cigarette manufacturers
16 have pictures of doctors saying that smoking is
17 the greatest thing in the world for them?

18 MR. LONG:

19 Object to --

20 EXAMINATION BY MR. BRUNO:

21 Q. They're not using opinion leaders
22 as part of the advertising?

23 MR. LONG:

24 Object to the form of the question.

25 A. Opinion leaders are more likely to

1 be people that you know personally. As I said,
2 it could be your mother. In many cases, my
3 kids are my opinion leaders. It depends on the
4 product, the purchase decision.

5 EXAMINATION BY MR. BRUNO:

6 Q. What about your other agents of
7 socialization?

8 A. And those would be --

9 Q. Only people you know?

10 A. Other agents of socialization
11 include --

12 Q. Doctors? Priests? Lawyers?

13 MR. LONG:

14 Object to the form.

15 EXAMINATION BY MR. BRUNO:

16 Q. People whom you respect?

17 A. Well, they can be negative or
18 positive influences.

19 Q. Fine.

20 It could be doctors, lawyers, and
21 priests; right?

22 A. It could be.

23 Q. It could be.

24 A. Either positive or negative.

25 Q. Great. If you want to drop the

1 negative, I'm talking about the positive. I'll
2 talk about the positive, you talk about the
3 negative, all right?

4 The point I'm making is that if you
5 can influence these people, these people can
6 influence others; right?

7 MR. LONG:

8 Object to the form. Move to strike
9 counsel's comments.

10 A. And what I'm trying to say is that
11 if you try to decide who my opinion leaders
12 are, and assume that the priest and the lawyer
13 and the doctor you use are negative -- are
14 positive role models for me, you could be
15 wrong. Because I get to decide who the opinion
16 leaders are and I get to decide --

17 EXAMINATION BY MR. BRUNO:

18 Q. We're beyond all that. We've done
19 the market research to find out.

20 A. Excuse me.

21 MR. LONG:

22 Joe, let her finish her answer.

23 THE WITNESS:

24 Let me finish, please.

25 MR. BRUNO:

1 But, I'm sorry, I can't let you go
2 off on something that we're not even
3 talking about, okay?

4 MR. LONG:

5 Joe, if you want to move to strike
6 an answer when it's finished, that's fine.

7 MR. BRUNO:

8 No, I want to --

9 MR. LONG:

10 It's inappropriate to interrupt the
11 witness in the middle of an answer. We
12 both know that.

13 MR. BRUNO:

14 Actually, that's not true. It's
15 appropriate to interrupt the witness when
16 she constantly refuses to answer the
17 question.

18 EXAMINATION BY MR. BRUNO:

19 Q. I am not asking that question,
20 okay? We are already over it. We have decided
21 through our market research who the opinion
22 leaders are. We have learned who the agents of
23 socialization are. Okay?

24 MR. LONG:

25 Object to the form of the question.

1 EXAMINATION BY MR. BRUNO:

2 Q. We've done that. The documents
3 show that that's been done.

4 A. What are you talking about? Excuse
5 me. But is --

6 Q. What am I talking about?

7 A. Yes.

8 Q. The fact that you yourself said
9 peer influence is the biggest influence.
10 You've got documents in black and white that
11 specifically refer to the same peer influence
12 and influencing the peers.

13 So I'm asking you would it not make
14 sense, if you understand that health is an
15 issue in smoking, to try to influence the
16 doctors? If you've identified that they are
17 opinion leaders and agents of socialization?

18 A. You're putting a lot of
19 hypotheticals in here.

20 MR. LONG:

21 Object to the form of the question
22 and move to strike counsel's testimony.

23 MR. BRUNO:

24 All right. Fine.

25 MR. LONG:

1 Thanks.

2 EXAMINATION BY MR. BRUNO:

3 Q. Can we get an answer now?

4 A. I'm going to try to answer this.
5 And I'm going to try to explain why you're
6 making it very difficult because you keep
7 paraphrasing what I've said and what we've
8 talked about in the past. And I don't want to
9 be misunderstood in what I say, so let me try
10 again.

11 If you want to identify the opinion
12 leaders, you're probably going to make phone
13 calls and ask: To whom did you speak when you
14 wanted to find out what movie to go see last
15 Friday? And they'll give you a name. And then
16 you can call that name of the person who's
17 probably in the same town and ask: Do you give
18 advice to many people about what movie to see
19 on Friday?

20 And then when you leave that town
21 of Decatur, Illinois, you can determine a list
22 of names of people who act as opinion leaders
23 for the general population on a given topic.

24 Q. Okay.

25 A. If you want an ad campaign that

1 uses opinion leaders, you're not talking about
2 mass media; you're talking about identifying
3 people who are known and highly selective,
4 highly directed targeted campaigns for
5 individuals. More like a direct marketing
6 piece, a direct marketing approach.

7 Opinion leadership is topic
8 specific and opinion leaders are usually people
9 with whom you have direct contact.

10 Q. It can't be any other way; right?
11 It can't be any other way?

12 A. Well, and that's why, when I say
13 it's not a traditional approach for advertising
14 is because in defining opinion leaders, you're
15 working at a very micro level.

16 Q. Okay. All right. And other agents
17 of socialization, is that the same kind of
18 micro level that you're talking about?

19 A. No, that can go to television as a
20 mass medium.

21 Q. Okay. Well, since you used those
22 -- You have to remember you are the one that
23 put those two together and you said that they
24 were equal. Pretermittting that for a moment,
25 let's talk about other agents of socialization.

1 MR. LONG:

2 Object to the form.

3 EXAMINATION BY MR. BRUNO:

4 Q. Because we had the same discussion
5 before and I asked you to define words that
6 were similar and we would ball them up into
7 one. And this is the problem that we've been
8 having all day long.

9 So now let's use other agents of
10 socialization, okay? Now, with other agents of
11 socialization, you are trying to influence
12 people who can influence others; isn't that
13 true?

14 MR. LONG:

15 Object to the form of the question.

16 Move to strike counsel's comments.

17 A. No, that's not true.

18 EXAMINATION BY MR. BRUNO:

19 Q. What are you doing with other
20 agents of socialization?

21 A. Those exist. You don't do anything
22 to them or with them. They are there. And
23 individuals decide who those will be. It's
24 Mrs. Smith, my first grade teacher; it's --

25 Q. It's not policemen in general or

1 doctors in general or lawyers in general;
2 right?

3 A. It's --

4 Q. It's got to be a specific person?
5 It's a name?

6 A. Well, it could be the church.

7 Q. Well, that's not a name.

8 A. No, that's not.

9 Q. It could be clergymen; right?

10 A. Based on impressions I've had of
11 the clergymen I've been around growing up, yes.

12 Q. It could be doctors?

13 A. It could be based on my personal
14 experiences with doctors and the attitudes that
15 I've developed toward doctors as a class.

16 Q. Right.

17 So if you could influence doctors
18 on the issue of smoking and health, you might
19 influence your target population?

20 MR. LONG:

21 Object to the form.

22 EXAMINATION BY MR. BRUNO:

23 Q. Tell me you can't if you can't.

24 "It's impossible to do. Can't do it. Bruno,
25 you're out of your mind." Is that your

1 testimony?

2 MR. LONG:

3 That's my testimony.

4 MR. BRUNO:

5 Is it? We'll swear you in. I get
6 more answers out of you.

7 A. There's a missing piece. You want
8 to influence doctors and, therefore, assume
9 that they are going to influence the rest of
10 the population that you're trying to target?
11 That's a pretty non-directed approach.

12 EXAMINATION BY MR. BRUNO:

13 Q. It is? Why is it non-directed?

14 A. Well, if you have a target, you
15 should attempt to reach that target.

16 Q. And if your target is smokers and
17 you're trying to convey to them that smoking
18 doesn't hurt you, I guess it would be a really
19 goofy idea to show up at medical conventions
20 and give away free cigarettes, huh?

21 MR. LONG:

22 Object to the form.

23 EXAMINATION BY MR. BRUNO:

24 Q. A really dumb idea?

25 MR. LONG:

1 Another objection.

2 EXAMINATION BY MR. BRUNO:

3 Q. Right? That would have absolutely
4 no impact on that issue; right?

5 MR. LONG:

6 Object to the form of the questions.

7 EXAMINATION BY MR. BRUNO:

8 Q. Isn't that true?

9 A. And so what's the connection
10 between the free cigarettes at the convention
11 and all these people who are going to be --

12 Q. Doctors at the convention?

13 A. -- convinced?

14 Q. Taking the cigarettes and using
15 them? No connection at all in your mind;
16 right? Just a dumb idea?

17 MR. LONG:

18 Object to the form.

19 EXAMINATION BY MR. BRUNO:

20 Q. Some crazy cigarette company
21 executive had the stupidest idea in the world
22 to give away free cigarettes to doctors at
23 medical conventions, according to you; right?

24 MR. LONG:

25 Object to the form of the question.

1 A. That's not what I said at all.

2 EXAMINATION BY MR. BRUNO:

3 Q. Well, then, tell me what you said.
4 How about answering the question and we can --

5 A. Because I think you're making some
6 assumptions or you want me to make some
7 assumptions about what they're going to do with
8 those cigarettes.

9 Q. What do you think they're going to
10 do with those cigarettes?

11 A. Give them to people who smoke?

12 Q. Maybe smoke them?

13 A. If they smoke, maybe they will.

14 Q. Maybe smoke them? Is it possible
15 that if you gave away cigarettes to a doctor,
16 he might smoke them?

17 A. Is he a smoker?

18 Q. I don't know. He might decide to
19 smoke. And if his patients saw him smoking,
20 what do you think that would convey to them
21 about smoking and health?

22 A. It depends on what they thought
23 about smoking and what they thought about their
24 doctor.

25 Q. And if they didn't have an opinion,

1 what would it convey?

2 MR. LONG:

3 Object to the form.

4 A. By the time anybody's old enough
5 to see a doctor and know what that is, they
6 know what a cigarette is and smoking is. And
7 they've got an opinion about that, too. So
8 maybe they think that their doctor is --

9 EXAMINATION BY MR. BRUNO:

10 Q. Okay. So in 19 --

11 A. Excuse me. May I finish?

12 Q. Yeah. Yeah.

13 A. You've asked me to hypothesize, so
14 I'm playing along.

15 Q. Okay.

16 A. So they may also think that their
17 doctor is not as smart as they initially
18 thought. That's a possibility, too.

19 Q. In 1965?

20 A. Sure.

21 Q. Sure.

22 People knew as much about smoking
23 in 1965 as they do in 1995; right?

24 MR. LONG:

25 Object to the form.

1 A. I don't know what people know about
2 smoking in terms of specifics. I think they
3 know more specific things now than they did
4 in --

5 EXAMINATION BY MR. BRUNO:

6 Q. They do.

7 Do you think that people in 1965
8 knew more or less about the hazards of smoking
9 and health than they did in 1995?

10 MR. LONG:

11 Object to the form of the question.

12 A. I don't know.

13 EXAMINATION BY MR. BRUNO:

14 Q. You don't know?

15 A. No. I think that there was always --

16 Q. Well, then, how do you know that if
17 they saw their doctor smoking, they would think
18 he was stupid?

19 A. Now, when was the Surgeon General's
20 report issued?

21 Q. Which one?

22 A. That had warning labels.

23 MR. LONG:

24 The first one was '64.

25 THE WITNESS:

1 So we're in '65 now. And --

2 EXAMINATION BY MR. BRUNO:

3 Q. And what?

4 A. I don't know that we've come very
5 far in understanding or that the public has a
6 specific understanding beyond that '64
7 statement of the link with cancer and the
8 dangers of smoking.

9 Q. Okay. And you know that based upon
10 what?

11 A. Looking at media available at the
12 time. It was widely --

13 Q. I'm sorry. You did some studies or
14 you got some research?

15 A. I did a little research.

16 Q. All right. Well, so what do you
17 know about what the public knows about the
18 hazards of smoking and health?

19 A. Well, especially in New Orleans,
20 there was quite a bit written in The
21 Times-Picayune because of the Ochsner Clinic.

22 Q. When?

23 A. Oh, for many years.

24 Q. Well, give me a date. '65, what
25 did they know in '65?

1 A. I'll have to look that up to tell
2 you specifically.

3 Q. Well, are you going to talk about
4 that at trial?

5 A. I might refer to it.

6 Q. Is it in your report?

7 A. No.

8 Q. Well, I guess I'm going to be
9 surprised at trial then as to what you're going
10 to say?

11 MR. LONG:

12 Object to the form.

13 A. No.

14 EXAMINATION BY MR. BRUNO:

15 Q. Well, then, how will I know what
16 you're going to say? You're going to talk
17 about what was in The Times-Picayune? You
18 know, tell me what you know about The
19 Times-Picayune. That's interesting.

20 That's not in your report; is it?

21 A. Maybe not.

22 Q. It may not be?

23 Well, what are you going to tell us
24 about The Times-Picayune?

25 MR. LONG:

1 What are you going to ask her?

2 MR. BRUNO:

3 I don't know.

4 MR. LONG:

5 Well, then, she doesn't know what
6 she's going to tell you.

7 EXAMINATION BY MR. BRUNO:

8 Q. Well, what were you asked to do
9 about The Times-Picayune? How about we do it
10 that way?

11 A. I wasn't asked to do anything about
12 that.

13 Q. So how do you know about The
14 Times-Picayune?

15 A. Well, I looked at a lot of them.

16 Q. When?

17 A. In the past -- I don't know when.

18 Q. In the past when?

19 A. I've looked at a lot of them in the
20 past.

21 Q. All right. And what conclusions
22 have you drawn from all of The Times-Picayunes
23 that you've looked at in the past?

24 MR. LONG:

25 Object to the form. Conclusions

1 about what?

2 MR. BRUNO:

3 She said that she has learned a lot
4 about smoking and health from reading The
5 Times-Picayune. I want to know what those
6 conclusions are.

7 EXAMINATION BY MR. BRUNO:

8 Q. What did you learn? And when?

9 MR. LONG:

10 Object to the form.

11 EXAMINATION BY MR. BRUNO:

12 Q. You're just going to make a big
13 broad statement that "I've read a whole bunch
14 of Times-Picayunes and I know a lot about
15 smoking and health"?

16 A. No. I'll let you make that
17 statement.

18 Q. Okay. Well, when did you first
19 believe that smoking was bad for you?

20 A. Ooh, I won't remember that. But --

21 Q. Okay.

22 A. -- I'm sure I was pretty young.

23 Q. Do you smoke?

24 A. No.

25 Q. Did you ever smoke?

1 A. I had a couple of puffs.

2 Q. When?

3 A. I was probably in high school.

4 Q. High school. Gee, and why did you
5 have a couple of puffs? You thought it was
6 cool?

7 A. Absolutely.

8 Q. Right.

9 A. It was a dare, I think.

10 Q. And did you see any advertising
11 that showed people who were really cool smoking
12 cigarettes?

13 A. I'm sure I saw a lot of
14 advertising.

15 Q. Did you see a lot of cool people in
16 movies smoking cigarettes?

17 MR. LONG:

18 Object to the form.

19 EXAMINATION BY MR. BRUNO:

20 Q. Did you?

21 A. I saw a lot of people smoking in
22 movies, I'm sure.

23 Q. They were cool people, too; weren't
24 they?

25 MR. LONG:

1 Object to the form.

2 A. I don't know. Those were black-and-
3 white movies. I'm not sure all those that I
4 remember were --

5 EXAMINATION BY MR. BRUNO:

6 Q. Come on. CASABLANCA? Hello.
7 Cool? You're going to tell me Bogart is not
8 cool?

9 A. No, he's definitely up there.

10 Q. Absolutely.

11 You saw a lot of cool people
12 smoking cigarettes in the movies?

13 MR. LONG:

14 Object to the form.

15 EXAMINATION BY MR. BRUNO:

16 Q. In black and white and in color;
17 didn't you?

18 A. I don't remember the color ones as
19 well.

20 Q. Okay. All right. Well, the point
21 is that that whole business of what was cool
22 was portrayed in many ways? It was portrayed
23 in television, it was portrayed in movies, it
24 was portrayed in magazine articles. Didn't
25 that help you formulate your appreciation of

1 what was cool?

2 MR. LONG:

3 Object to the form.

4 A. Deciding what's cool, I think it
5 would have depended on, you know, what actually
6 my sister was doing, my older sister.

EXAMINATION BY MR. BRUNO:

7 Q. Only your sister? You like shoes?

8 A. I love shoes.

9 Q. You love shoes. I knew I could --
10 So how do you know what shoes to --

11 MR. LONG:

12 Do you like hosiery?

13 MR. BRUNO:

14 Wait.

15 MR. LONG:

16 Do you like hosiery?

17 EXAMINATION BY MR. BRUNO:

18 Q. How do you know what shoes are
19 cool?

20 A. I do. It's very important.

21 Q. How do you know what shoes are cool
22 this season? What do you go look at? Your
23 sister?

24 A. Take Julia with me.
25

1 Q. No, I understand. Do you take your
2 sister?

3 A. I do.

4 Q. No. You look at the Vogue magazine
5 maybe, the Cosmo?

6 A. Sometimes I pick up Vogue.

7 Q. Sure.

8 I mean, you see what's the latest
9 fashion trend, you see that by reading the
10 magazines; don't you? And that's how you
11 figure out what's in this season? God forbid
12 with all those shoes out there, I don't know
13 what you all do with them. But you all love
14 shoes; don't you? Right?

15 A. All, we all do?

16 Q. That's definitely a southern --
17 guilty -- broadbrush. That's how you find out
18 the latest fashion trends, by seeing the TV,
19 the movie, the magazines; isn't that true?

20 A. I wouldn't be too sure of that.

21 Q. A variety of sources, though;
22 right?

23 A. Yeah. Yes.

24 Q. Okay. All right. And the
25 advertising medium is one of the biggest and

1 best ones?

2 A. Well, it's a source of information.

3 Q. It's a pretty big source of
4 information when it comes to shoes. Come on.

5 MR. LONG:

6 Object to the form.

7 A. It's a big source of information,
8 but you called it one of the best ones. And
9 that's why I --

10 EXAMINATION BY MR. BRUNO:

11 Q. Well, hey, when it comes to shoes
12 -- I'll tell my wife -- what is the best source
13 of information for shoes?

14 A. Well, for me, I look at my
15 students, you know.

16 Q. The students. Where do you think
17 they learned about the shoes?

18 A. Each other. I think they're
19 pretty --

20 Q. Each other.

21 So, gosh, there was no original
22 shoe. No shoe begot another shoe? I mean,
23 there's got to be someplace where the first
24 person gets the first shoe.

25 A. Well, somewhere somebody decides

1 what's cool and what's in and what's happening.

2 Q. Right. Of course.

3 All right. In your papers, you
4 talk about the efficacy of the antismoking
5 message?

6 A. Uh-huh (indicating affirmatively).
7 Yes. What?

8 Q. And you believe that increased
9 exposure to the antismoking message would,
10 in fact, deter smoking initiation?

11 MR. LONG:

12 What paragraph?

13 A. Yes, please tell me.

14 EXAMINATION BY MR. BRUNO:

15 Q. An article entitled "Parent
16 Intervention to Prevent Smoking: Using Joe
17 Camel to Teach Children About Smoking" by Lucy
18 Henke, page unnumbered, I am sorry to report.

19 MR. LONG:

20 Are you reading from a report or a
21 summary of an article?

22 THE WITNESS:

23 Yeah, you're thinking of something
24 else.

25 MR. BRUNO:

1 No, I'm reading from her article.

2 MR. LONG:

3 Okay. And what's the name of the
4 article?

5 MR. BRUNO:

6 The name of the article, I just gave
7 it to you.

8 MR. LONG:

9 Well, give it to me again.

10 MR. BRUNO:

11 I will. I will. I will.

12 MR. LONG:

13 Some of us don't write everything
14 down we say.

15 MR. BRUNO:

16 "Parent Intervention to Prevent
17 Smoking: Using Joe Camel to Teach
18 Children About Smoking."

19 EXAMINATION BY MR. BRUNO:

20 Q. Remember that article?

21 A. I do remember that, yes.

22 Q. Okay. Remember the statement, as
23 Pechmann?

24 A. Pechmann, right.

25 Q. It's Pech?

1 A. I think so.

2 Q. Pech? And Ratneshwar?

3 A. That one I've never really known if
4 I --

5 Q. Okay. All right. "Many factors
6 influence youth smoking. But increased
7 exposure to antismoking messages would help
8 to deter smoking initiation."

9 A. According to them.

10 Q. Right. Well, you don't buy that?

11 A. Well, there's some qualifications.

12 Q. All right. Well, do you agree with
13 it or not?

14 A. I would want to be sure that you
15 add the qualifications to that.

16 Q. All right. What qualifications
17 needed to be added?

18 A. They recommended that any such
19 program would take place within the context of
20 a larger program, which included other agents
21 of socialization, such as peer advisors, parent
22 involvement, school involvement.

23 Q. Okay.

24 A. And that those programs are
25 potentially best effective at very young ages.

1 Q. Okay. Good.

2 All right. So if we were going to
3 design a program to address -- And this is
4 specific to initiation; right? Does it relate
5 at all to cessation among youngsters or just
6 initiation?

7 A. I'm not sure how successful that
8 was with cessation. And I would have to look
9 again at, specifically, the results.

10 Q. Okay. But among the young now,
11 I'm not talking about cessation across the
12 board. You realize that?

13 A. Right.

14 Q. We're just talking about the kids.

15 All right. I mean, so let's limit
16 ourselves to initiation first. All right.
17 Would you endorse, as an expert, a program
18 that would combine, because it's got to be a
19 combination of things, it's got to combine,
20 first, the antismoking message? And I'm
21 assuming that's a variety of media, TV, radio,
22 magazine, newspaper and the like?

23 A. Okay.

24 Q. Okay. That has to be combined with
25 other agents for socialization, I think you

1 called them, which would be in the community,
2 in the schools and at home?

3 A. Yes. And they were using peer
4 advisors, too. They were suggesting using peer
5 advisors.

6 Q. Peer advisors, I'm not sure --
7 That's kids?

8 A. Same age individuals espousing the
9 same message.

10 Q. Okay. All right. Good.

11 Are you aware of any such programs
12 that currently exist in this country?

13 A. Well, they were reporting on a
14 California program, I believe.

15 Q. Right. That's the one.

16 Okay. And they had found some
17 success in that program; didn't they?

18 A. With qualifications like that, yes.

19 Q. Well, I know.

20 A. Yes.

21 Q. I didn't leave out the
22 qualifications. I said that program?

23 A. Yes.

24 Q. Okay. Be fair with me.

25 A. Okay.

1 Q. All right.

2 MR. LONG:

3 Strike the comments.

4 EXAMINATION BY MR. BRUNO:

5 Q. Now, what about smoking cessation?
6 Among youth, let's talk about the youth first,
7 okay? Isn't it true that to get kids to stop
8 smoking, the younger they are, the better it is
9 or the more successful they will be over their
10 life in quitting?

11 MR. LONG:

12 Object to the form.

13 A. I don't know that.

14 EXAMINATION BY MR. BRUNO:

15 Q. You don't know that?

16 A. I don't know that that's what they
17 address.

18 Q. No problem.

19 Not they, but does anybody address
20 that issue?

21 A. The focus has been more on not
22 starting --

23 Q. Okay.

24 A. -- as I understand those
25 antismoking campaigns.

1 Q. Okay. All right. And would you
2 believe that an antismoking message to cessate
3 smoking, okay, a different deal now, not to
4 deter initiation but to stop, would be
5 effective?

6 A. Much less effective.

7 Q. Less effective than the initiation
8 one?

9 A. It would be less effective in that
10 it is attempting to stop a behavior which has
11 begun, which to stop a decision or to reverse
12 a decision that has been made rather than
13 encouraging someone -- reinforcing current
14 behavior, which is non-smoking. So it's always
15 easier to reinforce an attitude than to change
16 an attitude.

17 Q. I get it. I get it.

18 So that if you compared the message
19 -- I mean, sorry, if you took the same message
20 and compared its effectiveness against that
21 population who hadn't yet started smoking
22 against those who you're trying to get to stop
23 smoking, it's going to be much more effective
24 in maintaining abstinence, if you will, in the
25 non-smoking population?

1 A. That's the idea.

2 Q. Okay. Now, but with regard to the
3 smoking population, are you -- Do you think
4 people should smoke?

5 A. I don't smoke. And people can do
6 what they want to do. But it's a --

7 Q. That's fine.

8 A. Okay.

9 Q. No opinion; right?

10 A. (Witness nods head affirmatively.)

11 Q. How about kids? Kids shouldn't
12 start smoking; should they?

13 A. No.

14 Q. No. They should wait until they're
15 how old?

16 A. I don't think anybody ought to
17 smoke unless they really decide they want to
18 and --

19 Q. Yes. But most people, after the
20 age of 21, we've learned, don't start to smoke.
21 So, obviously, most people who start to smoke
22 are starting younger than 21. Does that make
23 any sense?

24 MR. LONG:

25 Objection. Move to strike counsel's

1 comments.

2 EXAMINATION BY MR. BRUNO:

3 Q. It makes no sense?

4 A. Well, you're going from asking me
5 if people should smoke to some statistics I'm
6 not --

7 Q. Okay. Well, that's fine.

8 A. Okay.

9 Q. In any case, as an advertising
10 expert, would you agree that a message to
11 persuade smokers to enter into cessation
12 programs coupled with all the other agents of
13 socialization, okay, in this case the work as
14 well as the school, since we're dealing with
15 older populations, the community, peer groups,
16 the church, would be effective?

17 A. I wouldn't agree to that. I
18 haven't seen anything on large-scale cessation
19 programs.

20 Q. Okay. Would it be not effective?

21 A. It depends on what appeals are used
22 and how people perceive and --

23 Q. Okay. You think you could design
24 such a program?

25 A. It would be a challenge.

1 MR. LONG:

2 Have you got much more or you want
3 to take a short break? We've been going
4 about an hour, a little over an hour.

5 MR. BRUNO:

6 Yes, we can break. I just want to
7 go through these documents and then we'll
8 be out of here.

9 THE VIDEOGRAPHER:

10 We're going off the record at 2:39.

11 (Whereupon a brief recess was taken
12 at this time from 2:39 o'clock p.m. to
13 2:54 o'clock p.m.)

14 THE VIDEOGRAPHER:

15 We are back on the record at 2:54.

16 EXAMINATION BY MR. BRUNO:

17 Q All right. I just want to show you
18 some of these great internal documents and see
19 if they affect your opinion in any way. Now,
20 let's see. The opinions that you're offering
21 here, you're talking about -- let's see, I
22 wrote that down just a few minutes ago --
23 what influences tobacco promotion had on the
24 plaintiffs' decision to smoke, all right?

25 Are you going to offer an opinion

1 as to Gloria Scott's decision to smoke?

2 A. To the extent that it is involved
3 with advertising promotion, I guess this report
4 should cover that.

5 Q. Okay. Well, do you know anything
6 about her and her decision to start smoking?

7 A. Well, what she reports in the
8 deposition.

9 Q. Okay. So what is your understand-
10 ing of why she began to smoke?

11 A. Because it was cool and --

12 Q. Because it was cool?

13 A. Yeah.

14 Q. Okay. And your position is that
15 none of the cigarette advertising out there had
16 any effect at all on the view that cigarette
17 smoking was cool?

18 MR. LONG:

19 Object to the form.

20 EXAMINATION BY MR. BRUNO:

21 Q. Right?

22 A. She doesn't identify advertising as
23 a source of cool.

24 Q. That wasn't the question.

25 A. Okay.

1 Q. The question was whether or not you
2 have the opinion that any of the advertising
3 that the cigarette manufacturers did was to
4 specifically convey the message that cigarette
5 smoking was cool?

6 A. I don't know. To the extent that
7 any product attempts to convey the message that
8 use of the product is cool, I think you could
9 say that of any brand that advertises.

10 Q. All right. So then your answer is
11 yes, you're aware of cigarette advertising that
12 intended to convey that smoking cigarettes was
13 cool?

14 MR. LONG:

15 Object to the form.

16 A. I didn't say I was aware of specific
17 advertising that intended to convey anything.
18 I said it would be reasonable to assume that
19 cigarette brands, like any other brands who
20 advertise, may have as an objective conveying
21 the message that using that brand is cool.

22 EXAMINATION BY MR. BRUNO:

23 Q. Okay. Well, the question is do you
24 know whether or not the cigarette manufacturers
25 who are defendants in this case engaged in any

1 such practices over the past 40 years?

2 A. I don't know specifically what --

3 Q. Okay. You don't know one way or
4 the other?

5 A. -- what's cool.

6 Q. You don't know what's cool?

7 A. What in this context is cool.

8 Q. You have no idea?

9 A. Look at me, Joe.

10 Q. Not a clue as to what's cool?

11 A. Well, do you want to cite an ad or
12 an ad campaign or do you want to pick anything
13 from a can of peas to --

14 Q. Well, I could pick anything. I
15 mean, I'm a little surprised that you would
16 profess that you don't have any clue what cool
17 is. I mean, certainly in the sixties you had
18 some sense of what was cool.

19 A. I think that's --

20 MR. LONG:

21 Object to the form of the question.

22 THE WITNESS:

23 -- going to be interpreted

24 differently by every person.

25 EXAMINATION BY MR. BRUNO:

1 Q. It's what?

2 A. Going to be interpreted and decided
3 differently by every person. What's cool to
4 one person is not what's cool to the other.

5 Q. Well, gosh, then how do
6 manufacturers who want to advertise cool,
7 advertise at all, if everybody on the planet
8 has a different idea about cool?

9 A. Well, presumably, if one is going
10 to conduct an ad campaign, they would identify
11 the prime prospect --

12 Q. Okay.

13 A. -- whatever segment that is,
14 conduct research to determine what that group's
15 values and attitudes and beliefs are, and then
16 respond in a way that would reach those people.

17 Q. Right.

18 A. So what you're saying is that a
19 cigarette manufacturer could do research to
20 determine what the target group perceives to
21 be cool and then advertise accordingly; right?

22 A. Sure.

23 Q. Okay. All right. Do you know if
24 the cigarette manufacturers did that over the
25 past 30 or 40 years?

1 A. Conducted research on their
2 targets?

3 Q. All of the above. All of the
4 above. Conducted research to figure out what's
5 cool and then advertised what was cool?

6 A. I would assume any responsible
7 company would follow that plan.

8 Q. Okay. Any responsible company.
9 Do you think any responsible
10 company would market its products to
11 individuals, cigarettes in particular, to
12 the 21 and under group?

13 MR. LONG:

14 Object to the form.

15 A. Do I think any responsible cigarette
16 company would target -- Well, you've already
17 shown me some documents you said were looking
18 at the 18 to 24 target. And that includes 18-
19 to 20-year-old smokers is younger than 21. So
20 I'm not sure what you're asking me.

21 EXAMINATION BY MR. BRUNO:

22 Q. Okay. Well, would you agree with
23 me that the market under 18 is the market that
24 cigarettes are prohibited from advertising to?

25 A. Yes.

1 Q. Okay. So that when the cigarette
2 manufacturers refer to the market that they are
3 constrained from directly promoting cigarettes
4 to, they're talking about people who are under
5 18; right?

6 MR. LONG:

7 Would you read that back? I missed
8 something in there.

9 (Whereupon the preceding question
10 was read back by the court reporter.)

11 THE WITNESS:

12 And that's -- that would be a subset
13 of the market, yes.

14 EXAMINATION BY MR. BRUNO:

15 Q. All right. Okay. I'll show you a
16 document. And I apologize, there's like
17 fifteen numbers all over these documents. It's
18 called a "RESEARCH PLANNING MEMORANDUM" on
19 "SOME THOUGHTS ABOUT NEW BRANDS OF CIGARETTES
20 FOR THE YOUTH MARKET." And it's Scott
21 Plaintiffs' Exhibit Number 0148.01.

22 And the first paragraph -- and I'll
23 show this to you in a moment -- "At the outset,
24 it should be said that we are presently, and I
25 believe unfairly, constrained from directly

1 promoting cigarettes to the youth market; that
2 is, to those in the approximately 21-year-old
3 and under group."

4 So he's, obviously, referring to
5 people under 21 or people under 18?

6 MR. LONG:

7 Object to the form of the question.

8 EXAMINATION BY MR. BRUNO:

9 Q. Okay. You don't have to agree.
10 That's what he's talking about.

11 A. Well, you're deciding that's,
12 obviously, what he's referring to.

13 MR. LONG:

14 My guess is you've got one copy;
15 right?

16 MR. BRUNO:

17 Yeah, man. I'm lucky I saw that
18 today. I mean, if you want to make a
19 copy, you can.

20 MR. LONG:

21 No. If we had copies, we could save
22 time.

23 MR. BRUNO:

24 I'm not going to go through the
25 whole document, Gary. I was just going to

1 go through the first couple of paragraphs.

2 EXAMINATION BY MR. BRUNO:

3 Q. And ask the question if you would
4 just agree with me that prohibiting advertising
5 to 18-year-olds and that's what he's talking
6 about?

7 A. I agree that they are constrained
8 from advertising and promoting directly to 18
9 and under. And that is one subset of those
10 that are constrained.

11 Q. I hear you.

12 And he's referring to people that
13 he is constrained to advertise to. Who must he
14 be talking about?

15 MR. LONG:

16 Object to the form of the question.

17 EXAMINATION BY MR. BRUNO:

18 Q. Or can you not deduce that from
19 that sentence? If you can't, it's okay.

20 A. No, because he's not saying 18
21 anywhere in here that I see.

22 Q. No, he's saying people he is
23 constrained.

24 A. He or she.

25 Q. Do you see the constrained

1 language?

2 A. Sorry. The writer.

3 Q. The first sentence. And if, in
4 your view, if he's not talking about 18,
5 confirm it and we'll move on.

6 MR. LONG:

7 Object to the form of the question.
8 It calls for speculation.

9 A. I have no idea when this was
10 written, what it comes from, why they're
11 constrained. And I see 21, not 18, so --

12 EXAMINATION BY MR. BRUNO:

13 Q. Okay. So, in your opinion, the
14 language "constrained from directly promoting
15 cigarettes to the youth market" does not refer
16 to under 18?

17 MR. LONG:

18 Object to the form.

19 A. I have no idea what it's referring
20 to. But in that very paragraph, it refers to
21 21 and under. So I'm not sure where you're
22 getting the 18 figure.

23 EXAMINATION BY MR. BRUNO:

24 Q. Okay. That's fine.

25 So your assumption is he's talking

1 about 18 to 21?

2 MR. LONG:

3 Object to the form of the question.

4 A. I don't even assume that.

5 EXAMINATION BY MR. BRUNO:

6 Q. Then what do you assume?

7 A. I don't know what this is. I don't
8 know what this document is, when it was
9 written, why it was written, where it's coming
10 from. It would be reckless of me to speculate
11 about what that means.

12 Q. Okay. Well, regardless of when
13 it's written, doesn't it express an intent to
14 advertise, to get a share of the youth market?

15 MR. LONG:

16 Object to the form of the question.

17 A. I haven't seen that paragraph.

18 Would you like to point that one out?

19 EXAMINATION BY MR. BRUNO:

20 Q. Well, it's the whole -- I'll read
21 it. "If this be so, there is certainly nothing
22 immoral or unethical about our Company
23 attempting to attract those smokers to our
24 products." That's in the middle of the
25 paragraph.

1 A. Okay. And from that --

2 Q. So he's, obviously, since he's
3 talking about ethics and morals, he must only
4 be talking about 18-year-olds; right?

5 MR. LONG:

6 Object to the form of the question.

7 A. Only 18-year-olds on ethics and
8 morals?

9 EXAMINATION BY MR. BRUNO:

10 Q. Yes.

11 A. You know, I -- Okay.

12 Q. You don't have any clue as to what
13 he's talking about; isn't that true?

14 A. I see what's written.

15 Q. Okay.

16 A. I don't see why it was written. I
17 don't know what the purpose of it is, where
18 it's going, what's done with it. I don't know
19 what he's talking about in terms of, he or she,
20 as -- I mean, without the context, this is not
21 going to mean very much. And we can allow me
22 to speculate about what it means, but I think
23 it would not be wise or --

24 Q. The title doesn't give you any
25 context?

1 A. "THOUGHTS ABOUT NEW BRANDS OF
2 CIGARETTES FOR THE YOUTH MARKET"?

3 Q. Yes. Not enough to give you
4 context; right?

5 A. No. I don't know who's giving this
6 to whom, for what purpose. Is it a -- You
7 know, this could be a paper one of my students
8 presented. I know you're going to say it's not
9 that, but --

10 Q. We both know it's not that?

11 A. There are a lot --

12 Q. Right?

13 A. Right.

14 -- a lot of possibilities, though,
15 of what is that, what's it used for.

16 Q. We know we didn't find it in the
17 street; right? We know it's an RJR document;
18 right?

19 MR. LONG:

20 Object to the form.

21 EXAMINATION BY MR. BRUNO:

22 Q. It says on the cover RJR.

23 A. Right.

24 Q. I mean, you know, we can assume
25 that it fell out of the sky or that I picked it

1 up in the trash can, if we wanted to. But if
2 we wanted to be a little bit more realistic and
3 a little bit more relevant to what we're doing
4 here, we would recognize that it's an RJR
5 document with a certain title; wouldn't we?
6 And then we would say either "I don't know what
7 the guy's saying" or "I know what the guy's
8 saying," if we really wanted to be fair and
9 straight up about it, if we wanted to do that.

10 So you're telling me that you don't
11 have a clue about the document, where it came
12 from or what it means; right?

13 MR. LONG:

14 Object to the speech. Move to
15 strike. Object to the form of the
16 question. If we really wanted to be fair
17 and relevant, we'd ask somebody who was
18 familiar with the document what it meant
19 or wrote the document.

20 MR. BRUNO:

21 That's your view.

22 MR. LONG:

23 That's right.

24 EXAMINATION BY MR. BRUNO:

25 Q. All right. And your view is it

1 came from the sky, so we've got three views?

2 A. I think that's a mischaracter-
3 ization. Maybe you misunderstood what I was
4 saying.

5 Q. Well, tell me.

6 MR. LONG:

7 Did you say "this guy" or "the
8 sky"?

9 MR. BRUNO:

10 "The sky." She said one of her
11 students could have written it. That
12 was a quote, I think.

13 EXAMINATION BY MR. BRUNO:

14 Q. You actually said on the record one
15 of your students could have written this piece
16 of paper.

17 A. I said perhaps this is a student
18 paper.

19 Q. You said -- No, you said "one of my
20 students."

21 A. Well, maybe they could have.

22 Q. Okay. Good.

23 So is that going to be your
24 assumption or do you want to look at the
25 document and make a comment on it that's --

1 A. No, I'm trying to explain to you
2 that without understanding the context, without
3 knowing who wrote this, why they wrote it,
4 where it fits into whatever program, what is
5 done with it, I can speculate from now until
6 Monday --

7 Q. That's fine.

8 A. -- about what it might mean and I
9 can come up with a different interpretation
10 every single time.

11 Q. Of course.

12 A. If you would prefer to --

13 Q. No, I don't prefer to do anything.

14 A. Okay. Thank you.

15 Q. If you choose to say that and
16 that's your view that this has no relevance
17 whatsoever to anything that you're talking
18 about, then I accept that, okay? And that's
19 your view.

20 MR. LONG:

21 Object to the form of the question.

22 A. I don't know.

23 EXAMINATION BY MR. BRUNO:

24 Q. You don't know what this is, so you
25 can't possibly tell me whether or not it

1 impacts your opinion one way or the other?

2 A. I can't tell you whether it has any
3 relevance, that's right.

4 Q. Okay. All right. Even though it's
5 entitled -- it's RJR, it's entitled "RESEARCH
6 PLANNING MEMORANDUM." Gosh, what might that
7 refer to, a Research Planning Memorandum? Any
8 ideas or clues?

9 MR. LONG:

10 Object to the form of the question.

11 EXAMINATION BY MR. BRUNO:

12 Q. None. Okay. And on "SOME THOUGHTS
13 ABOUT NEW BRANDS OF CIGARETTES FOR THE YOUTH
14 MARKET," you have no clue what that might mean,
15 that this guy might be thinking about some new
16 brands of cigarettes? It's not possible that
17 that's what he's thinking about; right?

18 MR. LONG:

19 Object to the form of the question.

20 A. That's fine. Somebody wrote that,
21 somebody was thinking about that. I don't know
22 who the person is, I don't know what their
23 qualifications are, I don't know whether they
24 were asked to produce the document.

25 EXAMINATION BY MR. BRUNO:

1 Q. It makes a difference if they were
2 asked or if they weren't asked?

3 A. (Witness nods head affirmatively.)

4 Q. It makes a difference? Okay.

5 All right. "Brands tailored for
6 the beginning smoker should emphasize the
7 desirable psychological effects of smoking,
8 also suggesting the desirable physical effects
9 to be expected later," that doesn't help you at
10 all in having a sense of what this thing is all
11 about?

12 A. You see, --

13 Q. No clue?

14 MR. LONG:

15 Object to the form of the question
16 and comments.

17 A. That sentence as you've written it
18 and repeated it and as it's written here -- I'm
19 sorry, you haven't written it -- the sentence
20 as you've recited it and as it's written here
21 really could be about any brand aimed at any
22 target segment.

23 EXAMINATION BY MR. BRUNO:

24 Q. Okay. That's fine.

25 Bottom line, this document does not

1 provide you with any evidence whatsoever that
2 R. J. Reynolds Tobacco Company had any intent
3 to market cigarettes to individuals under 18;
4 right?

5 A. Absolutely not.

6 Q. Absolutely not.

7 A. There's a discussion of 21 and
8 under in there.

9 Q. Okay. That's fair.

10 A. I also noticed it mentioned that
11 it would be unethical to try to get people to
12 start smoking, but you didn't underline that
13 part.

14 Q. Actually, it says quite the
15 opposite. If you really want to know the
16 truth, no, it says there's nothing unethical.
17 I'll read it to you outloud again.

18 "...there is certainly nothing
19 immoral or unethical about our Company
20 attempting to attract those smokers to our
21 products," which is the opposite of what you
22 said.

23 A. "We should not in any way influence
24 non-smokers to start smoking...."

25 MR. LONG:

1 This is supposed to be a question-
2 and-answer type thing.

3 THE WITNESS:

4 I'm sorry. I'll quit.

5 EXAMINATION BY MR. BRUNO:

6 Q. "...rather, we should simply
7 recognize that many or most of the '21 and
8 under' group will inevitably become smokers,
9 and offer them the opportunity to use our
10 brands."

11 A. Yes.

12 Q. Okay. So your view would be, well,
13 gosh, gee whiz, those kids are going to start
14 smoking, anyway, so it's okay then to not call
15 it advertising for smoking initiation, it's
16 advertising for brand loyalty?

17 MR. LONG:

18 Object to the form.

19 EXAMINATION BY MR. BRUNO:

20 Q. That's okay with you?

21 MR. LONG:

22 Object to the form.

23 A. That's not what they said they're
24 doing.

25 EXAMINATION BY MR. BRUNO:

1 Q. That's exactly what they said
2 they're doing, they wanted brand loyalty.
3 Because in this document, the reason you made
4 that point to me, we shouldn't really try to
5 get them to initiate, we should just accept the
6 fact that these kids are going to smoke. But
7 if they're going to smoke, they ought to smoke
8 our cigarettes.

9 That's what he's saying; isn't it?

10 MR. LONG:

11 Object to the form.

12 A. As the manufacturers of farm
13 equipment would say about people who decide
14 to enter their product category.

15 EXAMINATION BY MR. BRUNO:

16 Q. Right. The same thing. Smoking,
17 farm equipment identical; right?

18 MR. LONG:

19 Object to the form.

20 A. Very similar.

21 EXAMINATION BY MR. BRUNO:

22 Q. Very similar. Good. Thank you
23 very much.

24 MR. LONG:

25 I'm going to be gone for 30 seconds.

1 I'll be right back. I have to make a
2 quick call.

3 MR. BRUNO:

4 Go ahead.

5 (Whereupon a discussion was held off
6 the record.)

7 THE VIDEOGRAPHER:

8 We're going off the record at 3:13.

9 (Whereupon a brief recess was taken
10 at this time from 3:13 o'clock p.m. to
11 3:14 o'clock p.m.)

12 THE VIDEOGRAPHER:

13 We are back on the record at 3:14.

14 EXAMINATION BY MR. BRUNO:

15 Q. All right. Another document, this
16 is also an RJR document, "PLANNING ASSUMPTIONS
17 AND FORECAST FOR THE PERIOD 1977 TO 1986." And
18 it says, at Page 14 -- by the way, this is
19 Scott Plaintiffs' Exhibit 4494 -- "Evidence is
20 now available to indicate that the 14- to 18-
21 year-old group is an increasing segment of the
22 smoking population. RJR must soon establish a
23 successful new brand in this market if our
24 position in the industry is to be maintained
25 over the long-term."

1 Now, any ideas as to why you'd be
2 creating a brand of cigarette intended to be
3 smoked by the 14 to 18 market if you weren't
4 going to try to promote it to them?

5 MR. LONG:

6 Object to the form of the question.
7 If you're going to ask her about the
8 document, why don't you let her see it.

9 MR. BRUNO:

10 Yes, I will. No problem. Well, you
11 want just the whole --

12 MR. LONG:

13 Yes.

14 A. (Witness reviews document.) Okay.
15 Front page? Title page?

16 EXAMINATION BY MR. BRUNO:

17 Q. And what? What's the question?
18 Confused again by what the document means --

19 A. No.

20 Q. -- entitled "PLANNING ASSUMPTIONS
21 AND FORECAST FOR THE PERIOD"?

22 A. Uh-huh (indicating affirmatively).

23 Q. Okay.

24 A. For R. J. Reynolds.

25 This is the kind of thing that

1 makes it very difficult to identify what this
2 is, who did it.

3 Q. Right.

4 You need to know all of that before
5 you can answer my question? My question was
6 not that they did it. My question was simply
7 can you think of any reason why you'd create a
8 brand intended to be smoked by 14- to
9 18-year-olds if you had no intent to market
10 that product to 14- to 18-year-olds? That was
11 my question.

12 MR. LONG:

13 Object to the form.

14 A. In marketing research and consumer
15 behavior, if you have a target of a certain
16 age, there's reason to believe that attitudes
17 people within that age group have did not
18 develop overnight. It might be reasonable to
19 look at the development of those attitudes.
20 And then I don't know what is planned.

21 EXAMINATION BY MR. BRUNO:

22 Q. Well, they're developing a brand
23 now. Let's see what they're talking about.

24 A. Well, --

25 Q. They want to manufacture a brand

1 directly to that market. So what you're
2 telling me is you might want to do the
3 research --

4 A. Okay.

5 Q. -- figure out what these folks are
6 looking for, and then fill the niche?

7 A. Okay. But you asked me --

8 MR. LONG:

9 Object to the form of the question.
10 Go ahead.

11 THE WITNESS:

12 But you asked me something
13 different. You asked me if I could think
14 of a reason people would develop a brand
15 for a group that they're not marketing to.
16 And that's one reason. That's one answer.
17 You do research to find out how attitudes
18 toward a brand develops.

19 Now, I don't know what this is.
20 And, besides, it says it's done for the
21 company by someone else. I don't know who
22 did it. I don't know that it's done by
23 the company. This -- I have no idea what
24 this represents.

25 EXAMINATION BY MR. BRUNO:

1 Q. Okay.

2 A. So I answered your question in
3 terms of marketing research and what people
4 might do and if I could think of a reason
5 they would do these things.

6 Q. All right. So, wait, wait.

7 A. But please don't ask me to identify
8 what this document represents, where it's
9 going, what it was used for.

10 Q. I didn't. I didn't ask you any of
11 that.

12 A. Then why are we using this
13 document?

14 Q. Because I wanted it to be a basis
15 for the question.

16 MR. LONG:

17 But it's not.

18 MR. BRUNO:

19 Well, it was.

20 EXAMINATION BY MR. BRUNO:

21 Q. I wanted to know why a company
22 might want to make a cigarette intended for
23 the 14 to 18 market if --

24 MR. LONG:

25 And I object to --

1 MR. BRUNO:

2 I understand you objected to it.

3 MR. LONG:

4 Well, let me finish. I'll let you
5 finish your question. Let me finish my
6 objection. But you can do your question
7 first.

8 MR. BRUNO:

9 Okay. Thanks.

10 EXAMINATION BY MR. BRUNO:

11 Q. I will read it again.

12 Okay. Here's the question: Any
13 ideas as to why you'd be creating a brand of
14 cigarette intended to be smoked by the 14 to 18
15 market if you weren't going to try to promote
16 to them? Okay. That's the question.

17 MR. LONG:

18 Object to the form. Mischaracter-
19 izes the document.

20 EXAMINATION BY MR. BRUNO:

21 Q. Okay. And then your answer was:

22 "In marketing research and consumer behavior,
23 if you have a target of a certain age, there's
24 reason to believe that attitudes people within
25 that age group have did not develop overnight.

1 It might be reasonable to look at the
2 development of those attitudes."

3 Well, looking at the development of
4 the attitudes, how does that relate to making a
5 cigarette intended for that target group?

6 A. No, that's as close as I can come
7 to producing a product for that target group.

8 Q. Okay.

9 A. I think understanding their
10 motivations, I can explain. But producing a
11 product for the group is something different.

12 Q. Right.

13 A. That's choosing it as a target.

14 Q. I'm confused. You're changing your
15 answer?

16 A. No, I'm not changing my answer at
17 all.

18 Q. All right. So you're making the
19 product to fit the target group?

20 MR. LONG:

21 Object to the form.

22 A. But now you have a totally different
23 situation.

24 EXAMINATION BY MR. BRUNO:

25 Q. Why?

1 A. You have a different target.

2 Q. Why is it different? They're 14 to
3 18 years old. How did it change?

4 A. Well, I'm looking here for where --
5 what you're referring to.

6 Q. Well, I'll give it to you if you
7 want. It's got a little yellow sticky on it.

8 MR. LONG:

9 He's talking about this paragraph
10 (indicating).

11 EXAMINATION BY MR. BRUNO:

12 Q. I mean, it's there in black and
13 white. It's got yellow on it and it says
14 they've discovered that they smoke and we
15 need to make a cigarette to give to these
16 14-, 18-year-old kids.

17 MR. LONG:

18 Object to your characterization of
19 the document.

20 MR. BRUNO:

21 Okay. Well, I don't have it in
22 front of me anymore.

23 MR. LONG:

24 Do you need the document to comment
25 on it?

1 MR. BRUNO:

2 No. No, no. But if you want me to
3 give it to you exact, I'll read it to you.

4 A. Well, the paragraph that you're
5 talking about begins with a discussion of 18-
6 to 35-year-olds representing the greatest
7 opportunity for long-term cigarette sales
8 growth.

9 EXAMINATION BY MR. BRUNO:

10 Q. Okay. So we're not talking about
11 that part of it.

12 A. Well, we're talking about the last
13 sentence in the paragraph about 18- to 35-
14 year-olds establishes a successful new brand in
15 this market.

16 Q. So you think that the last sentence
17 refers to the 35-year-olds? That's great.
18 Whatever works. If that's what you want to
19 say, I'll go with it.

20 A. Well, I'm telling you that --

21 MR. LONG:

22 Object to your characterization.

23 EXAMINATION BY MR. BRUNO:

24 Q. That's good.

25 A. I'm telling you the way you're

1 reading this --

2 Q. Right.

3 A. -- you know, casts it, I mean --

4 Q. Casts it in a horrible light;
5 doesn't it?

6 A. Well, --

7 Q. Gosh.

8 A. And there are lots of other
9 interpretations.

10 Q. Oh, right. And you found the
11 interpretation --

12 A. And you're not looking at this
13 objectively.

14 Q. Okay.

15 A. Look at it objectively.

16 Q. I will.

17 A. Okay.

18 Q. I'll look at it objectively, I sure
19 will, because -- Let's see now. The sentence,
20 "Evidence is now available to indicate that the
21 14- to 18-year-old group is an increasing
22 segment of the smoking population" followed
23 by this sentence, "RJR must soon establish a
24 successful new brand in this market if our
25 position in the industry is to be maintained

1 over the long-term," in your view, those two
2 sentences are not related? That's a strained
3 interpretation?

4 MR. LONG:

5 Object to the form of the question
6 and counsel's rendition.

7 EXAMINATION BY MR. BRUNO:

8 Q. That's okay. If you think it's
9 strained, I'll buy it.

10 A. That in and of itself is no
11 indication to me that what you're suggesting
12 took place actually took place, so --

13 Q. I never said that it did. That
14 wasn't the question.

15 A. Well, the question is "Evaluate
16 this."

17 Q. No, it wasn't "Evaluate this."
18 The question was why in the heck
19 would you be making a cigarette specifically to
20 be used to 14- to 18-year-olds if you had no
21 intention whatsoever to market to them? That
22 was the question.

23 MR. LONG:

24 Object to the form of the question.

25 A. Well, I wouldn't be.

1 EXAMINATION BY MR. BRUNO:

2 Q. You wouldn't be what?

3 A. Remember your question?

4 Q. Making the cigarette?

5 A. Yes.

6 Q. Okay. I agree.

7 Remember you told me a little bit
8 ago about how if you really wanted to find out
9 why the young kids smoke, you'd need a tracking
10 study?

11 A. I'm not sure I said "tracking
12 study." That's an advertising term to
13 determine how effective your ad campaign is.
14 A tracking study is what's typically done for
15 that.

16 Q. So it's to determine whether your
17 ad campaigns are working; right?

18 A. Whether you're reaching your goals.

19 Q. Reaching your goals.

20 A. Yeah. Sure.

21 Q. Advertising?

22 A. Well, --

23 Q. So maybe this document would
24 explain -- This is a Philip Morris document to
25 Dr. R. B. Seligman from Myron Johnson. And

1 under "Demographics," he said, "It has been
2 well-established by the national tracking study
3 and other studies that Marlboro has for many
4 years had its highest market penetration among
5 younger smokers. Most of these studies have
6 been restricted to people age 18 and over. But
7 my own data, which includes younger teenagers,
8 shows even higher Marlboro market penetration
9 among 15- to 17-year-olds."

10 So according to your own testimony,
11 this market tracking -- this tracking study
12 deals with their advertising success; doesn't
13 it?

14 A. No, not --

15 MR. LONG:

16 Object to the form of the question.
17 She hasn't testified about this yet, so
18 you can't characterize her testimony.

19 EXAMINATION BY MR. BRUNO:

20 Q. You said the tracking study was for
21 advertising; I didn't.

22 A. Well, tracking study is used to --

23 Q. To what?

24 A. -- check the effectiveness of an ad
25 campaign, but it's used for all kinds of

1 things. And I don't think -- Actually, I don't
2 see anything in here that --

3 Q. He must not be using it for that;
4 right?

5 A. No, he said "my data." I don't
6 know where his data come from.

7 Q. Right.

8 A. You say --

9 Q. I'm reading it.

10 A. -- that it says "my data."

11 Q. Well, it does.

12 A. You get data from a lot of sources.

13 Q. Meaning what? His data is wrong?

14 MR. LONG:

15 Why don't you take a look --

16 EXAMINATION BY MR. BRUNO:

17 Q. I don't understand.

18 A. Okay.

19 Q. What are you saying?

20 MR. LONG:

21 Take a look at the document.

22 MR. BRUNO:

23 Yeah.

24 MR. LONG:

25 And we can continue the argument

1 later.

2 MR. BRUNO:

3 Yeah. His data must be wrong.

4 (Whereupon a discussion was held off
5 the record.)

6 THE VIDEOGRAPHER:

7 We're going off the record at 3:26.

8 (Whereupon a brief recess was taken
9 at this time from 3:26 o'clock p.m. to
10 3:28 o'clock p.m.)

11 THE VIDEOGRAPHER:

12 We are back on the record at 3:28.

13 This is the beginning of Tape 4.

14 THE WITNESS:

15 Okay.

16 EXAMINATION BY MR. BRUNO:

17 Q. Okay. I forget where we were.

18 So, anyway, you're saying now that
19 the tracking study is not necessarily used for
20 advertising; right?

21 A. I don't get the tracking study in
22 this piece of paper, anyway.

23 Q. You don't?

24 Well, let's see now. If I was
25 doing advertising and maybe I'm kind of goofy

1 and I maybe want to check my advertising
2 against the numbers of cigarettes that I'm
3 selling, I might want to track who's buying my
4 cigarettes and where and compare it to where
5 I'm spending my advertising dollars. I could
6 do that; couldn't I?

7 MR. LONG:

8 Object to the form.

9 A. Tracking studies generally don't
10 track purchase. They track purchase intent;
11 they track reports of purchase; they track
12 awareness, attitudes, preferences.

13 EXAMINATION BY MR. BRUNO:

14 Q. Well, that's exactly what he's
15 talking about here, market penetration; isn't
16 that -- Is that only numbers, market
17 penetration?

18 A. Two things: In this paragraph,
19 there's a reference to a national tracking
20 study and other studies in one phrase.

21 Q. That's internal to Philip Morris.

22 A. Well, whatever it is. And,
23 second, --

24 MR. LONG:

25 What?

1

MR. BRUNO:

2

It's internal to Philip Morris.

3

MR. LONG:

4

What's internal?

5

MR. BRUNO:

6

The tracking studies. I mean, I

7

know that.

8

MR. LONG:

9

That's your testimony?

10

MR. BRUNO:

11

Uh-huh (indicating affirmatively).

12

That's what it is.

13

MR. LONG:

14

Okay. You're sure about that?

15

MR. BRUNO:

16

Positive.

17

MR. LONG:

18

That's your final answer?

19

MR. BRUNO:

20

That's my final answer.

21

MR. LONG:

22

Okay. Good. Wrong.

23

MR. BRUNO:

24

I learned that in some litigation

25

that I've been involved in with Philip

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Morris.

MR. LONG:

I will testify that it's not
internal.

THE WITNESS:

Is it my turn?

MR. LONG:

Yes, you may contribute.

MR. BRUNO:

Yes.

THE WITNESS:

Okay.

MR. BRUNO:

All right.

THE WITNESS:

And, second, there is a reference to
"but my own data." I don't see anything
about how the data are collected. There's
not a tracking study, necessarily. It
could have been -- I mean, that's
different. Those are different.

EXAMINATION BY MR. BRUNO:

Q. Okay. Meaningless. Great.

Meaningless to you, doesn't indicate anything
about marketing to 15- to 17-year-olds?

1 MR. LONG:

2 Object to the form of the question.

3 EXAMINATION BY MR. BRUNO:

4 Q. Right? Bottom line? Final answer?

5 A. It's a reference to 15- to
6 17-year-olds. So in some way, it's related
7 to that but I can't say in what way. And Mr.
8 Johnson -- Johnston has some data he's
9 interested in talking about.

10 (Whereupon a discussion was held off
11 the record.)

12 EXAMINATION BY MR. BRUNO:

13 Q. Okay. This is document Number
14 0165.01. And it says, "Our attached
15 recommendation to expand nationally the
16 successfully tested 'Meet the Turk' ad
17 campaign..."

18 Do you know what the "Meet the
19 Turk" ad campaign is?

20 A. No.

21 Q. That's Joe Camel.

22 MR. LONG:

23 "Meet the Turk" is not Joe Camel.

24 MR. BRUNO:

25 It's the precursor to -- I mean, you

1 want me to pull out all these documents?

2 It's the precursor to Joe Camel.

3 MR. LONG:

4 That's not what you said.

5 MR. BRUNO:

6 Okay. Fine.

7 MR. LONG:

8 If you're going to testify, testify
9 correctly.

10 MR. BRUNO:

11 Cut the camel in it. All right.

12 EXAMINATION BY MR. BRUNO:

13 "...and new Marlboro-type blend is
14 another step to meet our marketing objective:
15 To increase our young adult franchise. To
16 ensure increased and longer-term growth for
17 CAMEL filter, the brand must increase its share
18 for CAMEL filter -- the brand must increase its
19 share penetration among the 14 to 24 age group
20 which have a new set of more liberal values and
21 which represents tomorrow's cigarette
22 business."

23 Does this indicate in black and
24 white an intent to market to 14 to -- I forgot
25 the other age there where they're talking 18s

1 or 17s or 15s.

2 MR. LONG:

3 Object to the form. Lack of
4 foundation.

5 MR. BRUNO:

6 Okay.

7 MR. LONG:

8 Do you remember the question?

9 THE WITNESS:

10 Doesn't this indicate --

11 MR. LONG:

12 Or does it matter to you what the
13 question is?

14 THE WITNESS:

15 It was something that doesn't this
16 indicate an intent?

17 EXAMINATION BY MR. BRUNO:

18 Q. Doesn't this indicate that there
19 was an intent to advertise to the 14- to
20 18-year-old group?

21 A. Well, --

22 Q. If it doesn't, then it doesn't.

23 A. Well, let's say this. It would be
24 reprehensible if that were the -- if that were
25 the intent.

1 Q. Okay.

2 A. And, certainly, 14- to 24-year-olds
3 are mentioned here as a group which this writer
4 believes the brand should increase its share
5 penetration among. But basically this piece of
6 paper alone, this document, doesn't indicate
7 that the company had an intent to do that or
8 who this was or is there a campaign based on
9 that person's recommendations.

10 Q. Okay. This is the follow-up,
11 EXP 003326, entitled "CAMEL YOUNGER ADULT
12 SMOKER FOCUS GROUPS. BACKGROUND. Due to the
13 importance of younger adult smokers, Camel has
14 developed a new advertising campaign which is
15 directed solely toward this group. Although
16 the new campaign is very different from the
17 current campaign, it was developed to
18 supplement, but not replace, the Camel world
19 campaign."

20 MR. LONG:

21 Do you have a date on this document
22 in the rest of the document there?

23 MR. BRUNO:

24 There are pictures of all the
25 advertising pieces as well. Here's the

1 whole thing, Gary.

2 MR. LONG:

3 The only thing I was just going to
4 object to is your characterization of it
5 as a follow-up. I don't know whether it's
6 a follow-up or not.

7 MR. BRUNO:

8 Oh, I'm sorry. Here's the front
9 page. There is a date. February 1, 1985.

10 MR. LONG:

11 What are you going to ask her about?
12 What part do you want her to look at
13 particularly?

14 MR. BRUNO:

15 The one page that I pulled out. I
16 mean, she doesn't have to read all that
17 junk. I was just asking --

18 MR. LONG:

19 Junk?

20 MR. BRUNO:

21 It's definitely junk.

22 A. (Witness reviews document.) Okay.
23 I'm curious about something. You want me to --
24 I'm looking for that 14 to 24 in here. It's
25 not here.

1 EXAMINATION BY MR. BRUNO:

2 Q. Not there.

3 A. Okay.

4 Q. Okay.

5 A. This talks about younger adult
6 smokers.

7 Q. Right. Couldn't possibly be
8 talking about 14 to 24?

9 A. It could be talking about anything,
10 but it's not identified.

11 Q. It's not identified. Okay.

12 A. Right. It could be talking about
13 18 to 20, it could be -- As a matter of fact --
14 Well, never mind.

15 Q. Okay. That's fine.

16 Now, all these documents that talk
17 about this attraction to this 18 to 24 group or
18 whatever, they talk about the rebelliousness,
19 you, I'm sure, had a lot of -- read a lot about
20 this area, about the fact that what they're
21 looking for is the rebelliousness, the
22 individuality and so forth.

23 Are you familiar with what I'm
24 talking about?

25 A. (Witness nods head affirmatively.)

1 MR. LONG:

2 Object to the form and the
3 characterization of the document.

4 EXAMINATION BY MR. BRUNO:

5 Q. I mean, I can -- There's about
6 fifty documents and which I'm trying to avoid
7 reading, candidly, to be perfectly honest with
8 you. But, for example, let me try to give you
9 some nice language here. "Durable youth
10 values," "rebellion," "glamour," "danger,"
11 those are typical catch words for this group;
12 aren't they?

13 MR. LONG:

14 Object to the form. What group?

15 EXAMINATION BY MR. BRUNO:

16 Q. For the advertising to this
17 particular target group, the advertising
18 documents in this area talk about trying to
19 play on independence, individualism, heroics,
20 excitement, freedom. I mean, those are -- I
21 guess is the right word cues? No, it's buzz
22 words. Probably not cues. But these are the
23 things that the cues are intended to take
24 advantage of in this market, 18 to 24?

25 MR. LONG:

1 Object to the form.

2 A. Okay. What that list of things you
3 mentioned, I would refer to as values. And I
4 think that might be what you referred to
5 earlier as that which transcends demographics.
6 Now you're talking about marketing not in terms
7 of demographics but in terms of what values
8 people have.

9 EXAMINATION BY MR. BRUNO:

10 Q. Okay. Okay.

11 A. So you could be segmenting that
12 market, not by black versus white or 18 to 24
13 versus 25 to 39, but it's a different kind of
14 targeting based on people who have those value
15 systems.

16 Q. Yes, but haven't they -- hasn't it
17 been identified that people in the young group,
18 the 18 to 24 group, are the ones that have
19 these values?

20 A. Well, there are people in, I would
21 venture to say, every age group who have those
22 values.

23 Q. No, I understand that. But, I
24 mean, this is where the bulk of them are?
25 This is why they use these values in their

1 advertising to this group, to switch brands?
2 That's all over these documents.

3 MR. LONG:

4 Object to the form.

5 A. And some of those values that you
6 mentioned are just core cultural American
7 values rather than subcultural. Individuality
8 and achievement and activity are all core
9 values. So many products, many brands
10 advertise to target segments based on those
11 values.

12 EXAMINATION BY MR. BRUNO:

13 Q. Right.

14 All right. Looking at a document
15 entitled Scott Plaintiffs' Exhibit 0150.01 and
16 it is a, I'm not going to try this one,
17 K-W-E-C-H-A-N-S-K-Y Marketing Research, Inc.

18 A. I've never heard of him.

19 Q. You've never heard of him?

20 A. No.

21 Q. Okay. I just want to know if you
22 agree with these statements? "There is no
23 doubt that peer group influence is the single-
24 most important factor in the decision by an
25 adolescent to smoke"?

1 MR. LONG:

2 Object to the form of the question.

3 A. That's not bad. But some age groups
4 and some individuals rely on parents and
5 siblings, so --

6 EXAMINATION BY MR. BRUNO:

7 Q. Well, it said "singlemost" now.
8 It didn't eliminate everybody. It said
9 "singlemost."

10 A. I'd say one of the most important.

11 Q. One of the most?

12 A. Yes.

13 Q. All right. So you're adding family
14 and --

15 A. Parents and siblings.

16 Q. -- siblings?

17 A. Parents and siblings.

18 Q. Okay. Along with the peer group --

19 A. Yes, sir.

20 Q. -- at the same level of influence?

21 A. Not necessarily at the same level.

22 It depends on, right, age -- Well, it depends
23 on what age, what -- But those three come out
24 consistently in studies as the top three.

25 Q. Okay. "Around the age of 11 to 13,

1 there is peer pressure exerted by smokers on
2 non-smokers that amounts to taunting and
3 goading of the latter to get them to smoke."

4 Is that true or false?

5 MR. LONG:

6 Object to the form.

7 A. For some adolescents between 11 and
8 13, yes. I wouldn't say for all there is
9 taunting and goading.

10 EXAMINATION BY MR. BRUNO:

11 Q. Okay. "In some cases, the
12 beginning smoker is not just emulating the peer
13 group in general but copying a specific member
14 of it that is respected and admired. This can,
15 on occasion, be an older sibling."

16 A. Absolutely. In some cases, yes, I
17 agree with that.

18 Q. Okay. The next one, "One of the
19 reasons for adolescent attraction to smoking is
20 curiosity about the physical sensations of it."

21 A. Even in research, they'll admit
22 curiosity is the reason taking the first
23 cigarette.

24 Q. Okay. "More important reasons for
25 this attraction are the forbidden fruit aspects

1 of cigarettes." Is that true?

2 A. For some people, that's no doubt
3 true.

4 Q. Okay. "The adolescent seeks to
5 display his new urge for independence with a
6 symbol. And cigarettes are such a symbol since
7 they are associated with adulthood and, at the
8 same time, adults seek to deny them to the
9 young."

10 A. For some people, no doubt, that's
11 true. I don't see anything wrong with that.

12 Q. Okay. "By deliberately flaunting
13 out this denial, the adolescent proclaims his
14 break with childhood, at least to its peers."

15 A. For some people, that's probably
16 true.

17 Q. All right.

18 A. Yeah.

19 Q. But you don't find -- you can't
20 generalize that to the population at large?

21 A. I wouldn't -- I'd be careful about
22 that.

23 Q. Okay. But that's not so with the
24 peer group influence? You're saying that's
25 pretty much everybody? Family, siblings,

1 peers, everybody?

2 A. The research would support that.

3 Q. Everybody. Okay. And that rules
4 out this business of seeking to display the new
5 urge for independence with a symbol?

6 A. No, I think we're talking about
7 external forces. When you look at the factors
8 that influence, you're looking at the external
9 forces. Certainly, what you just mentioned
10 would be an internal force.

11 Q. Oh, I see. So the two could be co-
12 existent?

13 A. (Witness nods head affirmatively.)

14 Q. In other words, the reason why the
15 adolescent seeks a display is because he's an
16 adolescent and he wants to act like an adult,
17 but the peer group influence or the siblings or
18 the parents are what introduce him to this as
19 a possible way of expressing his independence?

20 Make sense?

21 A. For adolescents who -- For some
22 people, what you say is true. I just don't
23 want to generalize the entire population of
24 adolescents.

25 Q. But you are generalizing to the

1 entire population of adolescents with regard to
2 peer group influence. That's what's confusing
3 me.

4 MR. LONG:

5 Object to the form.

6 EXAMINATION BY MR. BRUNO:

7 Q. I mean, you're saying everybody.

8 MR. LONG:

9 Object to the form.

10 EXAMINATION BY MR. BRUNO:

11 Q. Well, aren't you?

12 A. When I'm talking about peer
13 influence, parent and sibling influence, we're
14 talking about decisions about whether or not to
15 smoke.

16 Q. All right. But you are
17 generalizing to the whole population is all I'm
18 getting at?

19 A. Yes, based on research that's been
20 done. And I'm not sure whether you're talking
21 about a subset of adolescents or those who
22 smoke or those who don't. It seems you're
23 limiting to those who decide to smoke. And I
24 just want to say that, yes, for some people,
25 what you've said is true.

1 Q. I didn't follow that.

2 Is it not true that the way this
3 works is that the peer group, the siblings and
4 the parents, introduce the cigarette to the
5 child? That's the external influence? That's
6 how the kid gets access to it, sees it; right?
7 That's how he learns about its existence?

8 A. People learn about the existence of
9 cigarettes and smoking -- You know, it might
10 not be the parent who smokes. Maybe the parent
11 doesn't smoke but maybe the parent is a
12 positive influence in not smoking.

13 Q. Well, I understand.

14 Still, one of the above, I mean,
15 if you're telling me that they learn about
16 cigarettes through some other source, then
17 fine. But they learn about the existence,
18 according to your own reports and previous
19 testimony, they learn about them from the
20 parents, from the siblings or from the peers?

21 A. And from their world.

22 Q. Including advertising and TV and
23 movies and comic strips and all that?

24 A. And people they see on the street,
25 in the supermarket and --

1 Q. Okay.

2 A. Okay. So it's a whole wide range
3 of experiences.

4 Q. All right. And advertising is one
5 of them?

6 A. Sure.

7 Q. Clearly. I mean, the kids see the
8 billboards?

9 A. Sure.

10 Q. Okay. All right. So when it comes
11 to the decision, that is, to decide to smoke or
12 not to smoke, is it your testimony that the
13 child's need for independence does not play any
14 role?

15 A. I would not say that at all ever.

16 Q. Okay.

17 A. In fact, maybe that is a motivating
18 factor for --

19 Q. Some?

20 A. Right. I mean, maybe that's the
21 way they choose to exert their independence,
22 those who --

23 Q. So how does the -- What's the
24 dynamic between the peers and the parents
25 and the siblings? That's where they get the

1 knowledge that it's okay?

2 A. Or the reverse.

3 Q. So that if it's not okay, then they
4 play upon the independence factors?

5 MR. LONG:

6 Object to the form.

7 EXAMINATION BY MR. BRUNO:

8 Q. Right?

9 A. Well, the parents play an important
10 role in developing the values and the attitudes
11 which will then affect the behaviors.

12 Q. All right. But what I'm trying to
13 understand is if the parents are saying that
14 it's not good to smoke --

15 A. Oh, there are those who will still
16 smoke.

17 Q. Right.

18 And those who will still smoke are
19 smoking because of this internal thing that's
20 going on, that is, the need to be independent?

21 A. Well, that might motivate some of
22 them to do something that their parents have
23 told them is not, yes.

24 Q. Okay. All right. But it is a
25 common feeling among adolescents to want to

1 be an adult?

2 MR. LONG:

3 Object to the form.

4 A. That's probably fair to say. Many
5 adolescents like to think of themselves as
6 older than they are.

7 EXAMINATION BY MR. BRUNO:

8 Q. Well, it's how people grow up.
9 I mean, they want to make the break from
10 childhood to adult. And they do that with --
11 because the natural growth process is to have
12 -- to not be a kid anymore and to be an adult;
13 right?

14 MR. LONG:

15 Object to the form.

16 A. That's the natural progression of
17 development.

18 EXAMINATION BY MR. BRUNO:

19 Q. Right.

20 And so to be an adult, you start to
21 do adult things; right?

22 A. You, for example, rely more on
23 friends for decision-making and develop peers.

24 Q. Well, help me with that. Just help
25 me with that. You rely on the friends for the

1 decision-making process, meaning that the
2 adolescent will substitute the friends'
3 decision for their own?

4 Is that what you're saying to us?

5 A. I'm referring to developmental
6 theory. You started talking about development.
7 And Piagetian developmental theory suggests
8 that a period of transformation that takes
9 place during adolescence where the feelings and
10 emotions of peers becomes more important than
11 it was in childhood in the previous stage,
12 concrete operational stage.

13 Q. Yes.

14 Feelings and emotions is different
15 from substituting your judgment for somebody
16 else's. You said that they would rely on
17 somebody else's judgment, not somebody else's
18 feelings or emotions. Are you putting them in
19 the same box?

20 A. No, I didn't think I had said
21 "judgment."

22 Q. Well, --

23 MR. LONG:

24 What question started this whole
25 thing?

1 (Whereupon a discussion was held off
2 the record.)

3 EXAMINATION BY MR. BRUNO:

4 Q. At Line 15:51:34, your answer:
5 You, for example, rely on friends for
6 decision-making?

7 A. Is "judgment" in there?

8 Q. Decision-making and judgments are
9 different?

10 A. Decision-making is a process people
11 go through where they assess attitudes --

12 Q. And then end up with?

13 A. -- collect information, evaluate
14 the information, and then decide whether to --

15 Q. And then finish with a judgment?

16 A. -- decide whether to act on it.

17 Q. Okay. All right. You're making
18 a distinction between decision-making and
19 judgment. Do you make a distinction between
20 decision-making and feelings of others?

21 MR. LONG:

22 Object to the form.

23 A. Attitude development is a part of
24 decision-making.

25 EXAMINATION BY MR. BRUNO:

1 Q. Okay. So when a kid, when you say
2 that a kid starts smoking or initiates smoking
3 because of his peers, it's because he is
4 allowing the peer to make the decision for him
5 or her?

6 A. No, I didn't say that. I don't
7 think I said that.

8 Q. All right. Well, tell me what you
9 mean.

10 MR. LONG:

11 What was the last one? I think you
12 misunderstood her.

13 EXAMINATION BY MR. BRUNO:

14 Q. I said tell me what you mean when
15 you say that the peer group influence is the
16 most important determinant in the decision of
17 an adolescent to initiate smoking. Exactly
18 what is the dynamic? Does the child allow the
19 peer to make the decision for him or her?

20 A. Now you're switching child with
21 adolescent.

22 Q. I'm sorry. Make it all adolescents
23 for you.

24 A. Okay.

25 Q. There's a difference, of course,

1 between an adolescent and a child; right?

2 A. Yes.

3 Q. What's the difference?

4 A. Age. And many other things.

5 Q. And what are the age groups?

6 A. Roughly 11 and 12 under.

7 Q. Child?

8 A. (Witness nods head affirmatively.)

9 Q. And adolescents?

10 A. Twelve and -- Over 11 and 12.

11 MR. LONG:

12 Twelve up to about 50.

13 MR. BRUNO:

14 Okay. You're testifying.

15 MR. LONG:

16 That's right.

17 MR. BRUNO:

18 He's getting me back.

19 EXAMINATION BY MR. BRUNO:

20 Q. Okay. Adolescents, I meant to say
21 adolescents.

22 A. Okay. And the second part, I want
23 to be sure that we're talking about the same
24 thing. You, again, said that I said peers are
25 the most important influence for adolescents

1 and children.

2 Q. Peers, mother and father, and
3 siblings?

4 A. Peers and parents and siblings,
5 right.

6 Q. And I want to understand that
7 dynamic. How does that work? Be it the
8 sibling, be it the parent, be it the peer, is
9 the child allowing them to make the decision
10 for them?

11 A. No.

12 MR. LONG:

13 Object to the form.

14 EXAMINATION BY MR. BRUNO:

15 Q. All right. So how does it work?

16 A. Well, they are -- People will
17 identify with significant adults, with
18 significant siblings and peers in their lives.

19 Q. Okay. "Identify with" meaning
20 that --

21 A. Adopt the values of.

22 Q. Adopt the values of. All right.
23 Because the person smokes, they will smoke?

24 A. It doesn't always happen.

25 Q. Well, you generalize as to the

1 whole adolescent population, so something's got
2 to always happen.

3 MR. LONG:

4 Object to the form.

5 A. Well, --

6 EXAMINATION BY MR. BRUNO:

7 Q. And let's stop. Let's be clear
8 here. Are you not generalizing that the
9 singlemost important influence with regard to
10 the decision of an adolescent to smoke is the
11 parents, the siblings or the peers? I mean,
12 that is your generalization?

13 A. Yes.

14 Q. Okay. Now, so that means, because
15 we're generalizing, we're saying, we're talking
16 about most, if not all, of individual
17 adolescents who initiate smoking; right?
18 That's what generalization means.

19 MR. LONG:

20 Object to the form.

21 EXAMINATION BY MR. BRUNO:

22 Q. Right?

23 A. That we're talking about
24 adolescents who begin to smoke.

25 Q. We're talking about --

1 A. Is that what you said?

2 Q. -- all of them or most of them.

3 A. Okay.

4 MR. LONG:

5 All of them who begin to smoke or --

6 MR. BRUNO:

7 Yes.

8 MR. LONG:

9 Okay.

10 THE WITNESS:

11 Okay.

12 EXAMINATION BY MR. BRUNO:

13 Q. We're talking about the initiation
14 of smoking behavior, okay? And I just want to
15 be clear that with this generalization stuff,
16 we're basically saying that all of them or most
17 of them start smoking because of either the
18 peer, mom and dad, or the sibling?

19 A. Okay.

20 Q. All of them.

21 So I want to get an understanding
22 of the dynamic, how that works. So your
23 testimony is that it's emulation, they're
24 copying mom and dad?

25 MR. LONG:

1 Object to the form.

2 A. They will -- No, not necessarily.
3 Because their parents don't always smoke,
4 although in the majority of time they do,
5 okay? And --

6 EXAMINATION BY MR. BRUNO:

7 Q. Well, it's one of the above. So in
8 the case where mom and dad don't smoke, then
9 they could be emulating a sibling? And if the
10 sibling doesn't smoke, they could be emulating
11 a peer? Or there are a whole bunch more
12 variables in here that we're not really
13 addressing?

14 A. There are a lot of variables.

15 Q. There are a lot more variables;
16 aren't there? Okay. What are some of those
17 other variables?

18 A. Well, for example, the type of peer
19 group.

20 Q. Okay. What type of peer group will
21 more likely cause an adolescent to initiate
22 smoking than will not?

23 A. For some people, it's going to be
24 an aspirational peer group where the pressure
25 is indirect.

1 Q. Okay.

2 A. Where the adolescent would like to
3 be a member of the group and adopts the
4 behaviors in order to see himself or herself as
5 a member of the group or perhaps be accepted by
6 the group.

7 Q. So that's still emulation, copying;
8 right?

9 A. Okay.

10 Q. Or adopting the values?

11 A. Well, of a group that you're not
12 necessarily physically the member of but would
13 like to be.

14 Q. I understand that. You're still
15 copying.

16 A. Okay.

17 Q. And you want to feel better about
18 -- The reason why you're copying them is
19 because you want to feel better about yourself;
20 right?

21 MR. LONG:

22 Object to the form.

23 EXAMINATION BY MR. BRUNO:

24 Q. I mean, you want to be associated
25 with a group you perceive to be a cool group.

1 So, obviously, you want to feel better about
2 yourself. And in your own mind you've figured
3 out the way to be like them is to act like
4 them; right?

5 MR. LONG:

6 Object to the forms.

7 A. Okay.

8 EXAMINATION BY MR. BRUNO:

9 Q. Wrong?

10 A. That's not bad. Fine.

11 Q. Well, I mean, that's the model.

12 A. That's good.

13 Q. That's got to be a model. I mean,
14 doesn't there have to be some kind of a model
15 that explains your theory?

16 A. After identification, when the
17 behaviors are copied, then there is internali-
18 zation of the values and they're adopted as
19 one's own. So, yes, it's all within the same,
20 the normative peer group and the indirect
21 pressure.

22 Q. Okay. All right. Now, is it
23 always the peer group that you're not
24 associated with or are there other peer groups
25 that would cause an initiation of smoking?

1 A. That's the other type I was about
2 to tell you about, okay?

3 Q. Okay. And what's that all about?

4 A. Well, there's a different type of
5 peer pressure, peer influence, which is direct.
6 Which is --

7 Q. "Come on. Try a cigarette."

8 A. Right. Right.

9 Q. Okay. And that's a little bit
10 different notion because the person is not
11 willingly wanting to comply to be like the
12 other one, they are reacting now instead of
13 doing something positive?

14 A. Well, if they comply, they
15 willingly want to comply; if they don't, they
16 don't. But the pressure that I'm talking about
17 is direct in that case.

18 Q. Well, with pressure, you can't
19 really talk about willingness; can you?

20 A. Well, the interaction. Sure, it's
21 an interaction. And you can choose to comply
22 or not.

23 Q. Well, but if there was willingness,
24 what would be the purpose of the pressure? I
25 mean, you'd just start smoking because it was

1 cool. You wouldn't need to be pressured if
2 there was willingness because you would want
3 to be part of the group; right?

4 MR. LONG:

5 Object to the form.

6 A. But we're talking about a different
7 kind right now.

8 EXAMINATION BY MR. BRUNO:

9 Q. What is the different kind?

10 A. Direct pressure.

11 Q. Direct pressure.

12 The direct pressure is "Hey, you,
13 do something." And I'm just curious. I don't
14 understand. I mean, if I'm in the group, I'm
15 already in the group; right?

16 MR. LONG:

17 Not for long.

18 EXAMINATION BY MR. BRUNO:

19 Q. My peer group?

20 MR. LONG:

21 Not for long.

22 A. Could or could be.

23 EXAMINATION BY MR. BRUNO:

24 Q. Could or could be.

25 A. Could or could not be.

1 Q. Could or could not be.

2 A. Yeah.

3 Q. Okay. But I know who they are. I
4 know who the group is.

5 A. And there's interaction.

6 Q. Oh, I understand.

7 There's also interaction with the
8 other group. You see them.

9 A. Well, it's internal. But this is
10 actual interaction. There's verbal communica-
11 tion or non-verbal communication or --

12 Q. Right.

13 And my point is that non-verbal
14 communication comes in the form of pressure?
15 So doesn't that imply a non-willingness that
16 they have to overcome?

17 MR. LONG:

18 Object to the form.

19 A. Who has to overcome non-willingness
20 to do what? I'm sorry. I got lost on that
21 one.

22 EXAMINATION BY MR. BRUNO:

23 Q. If I'm sitting there and there's
24 this peer group, I don't smoke, unless they
25 come up to me and they say, "You ought to

1 smoke" or "Smoke," so if they don't say those
2 words then, according to you, I'm not smoking?

3 MR. LONG:

4 Object to the form.

5 EXAMINATION BY MR. BRUNO:

6 Q. Because there's no pressure; right?

7 A. No.

8 Q. No?

9 A. That's not what I said.

10 Q. There's always pressure?

11 A. There's pressure whether one --
12 There is influence, I don't know if you want to
13 call it pressure.

14 Q. You used the word "pressure," not
15 me.

16 MR. LONG:

17 She used it in her way, you use it
18 in your way.

19 MR. BRUNO:

20 No, I'm sorry. How many ways can
21 you use the word "pressure"? Unless
22 you're cooking.

23 MR. LONG:

24 It's all in your imagination. I
25 have no idea how many ways you can use the

1 word "pressure."

2 MR. BRUNO:

3 I don't know. I mean, it just
4 depends on how creative you want to be
5 in testifying.

6 EXAMINATION BY MR. BRUNO:

7 Q. You know, I'm listening to words
8 and responding with your words because I want
9 to understand them. It made perfectly good
10 sense to me the business of the peers and
11 they're cool and I'm not in and I want to
12 emulate. That makes sense. I'm deciding
13 something.

14 I'm having a hard time
15 understanding, though, the business of there
16 needs to be some interaction and what you
17 called pressure. And maybe you meant to say
18 something a little bit less than pressure,
19 maybe influence.

20 A. Well, I used those words because
21 the literature has used those distinctions.
22 And they talk about different types of peer
23 pressure. If you want to discuss peer
24 pressure, let's distinguish between the
25 indirect pressure and the direct pressure.

1 Because it's simply an acknowledgment of that
2 normative peer group, the aspirational peer
3 group.

4 Q. It's not me who wants to talk about
5 anything. You told me there were two types of
6 peer groups. You said there was the peer group
7 that you want to emulate that you're not a part
8 of, then you said there was the other kind of
9 peer group that exerts some kind of a pressure.
10 Now, did you not mean to say "pressure"? Did
11 you mean to say "influence"?

12 A. No, I meant to say "pressure"
13 because that's used in the literature.

14 Q. Okay. So we are talking about
15 pressure. Now, is there more than one kind of
16 pressure? Is there a third group?

17 A. This distinction, this is the only
18 two that I wanted -- these are the only two
19 that I wanted to distinguish between.

20 Q. Okay. We've just got two then.
21 And so we've got the emulation group and we've
22 got the pressure group. And the pressure comes
23 in the form of what?

24 A. You're calling the indirect
25 pressure group an emulation group. It is

1 called an indirect pressure group.

2 Q. How are they applying any pressure?
3 I mean, isn't the person applying the pressure
4 on his- or herself?

5 A. Yes, but in the literature.

6 MR. LONG:

7 Hence, the term "indirect."

8 EXAMINATION BY MR. BRUNO:

9 Q. No, hence the term "indirect"
10 means -- Oh, no, no, no, no, no. Sorry.
11 Sorry. Pressure can come from within, it can
12 come from without. It could be indirectly from
13 without, it could be directly from without.

14 A. I don't disagree with you on that.

15 Q. I know. I mean, even though he
16 doesn't get it, I get it and you get it.

17 MR. LONG:

18 The first time you've gotten
19 anything today.

20 EXAMINATION BY MR. BRUNO:

21 Q. I'm just trying to understand the
22 business of this external pressure business
23 from the peers. I mean, it always comes in the
24 form of "Hey, you ought to." I mean, you know,
25 is it --

1 A. Well, it's not necessarily that
2 way. It could be "Hey, why don't we?" "Look
3 what I found."

4 Q. Okay. All right. It's still
5 verbal and it's still a request to do something
6 that you didn't think of it by your big self.
7 Maybe we can go at it --

8 A. That's more or less, I think, what
9 it's referring to.

10 Q. Is that it? Okay. Somebody else
11 is inviting you to the party, and you decide
12 to come or not to come. I guess the point I'm
13 trying to make is if you don't get invited,
14 you don't go to the party. So if the person
15 doesn't say to you "Let's try this" or "You
16 ought to try this," then you don't smoke,
17 according to your theory on this?

18 MR. LONG:

19 Object to the form.

20 EXAMINATION BY MR. BRUNO:

21 Q. Right?

22 A. Well, but you're talking about
23 interaction --

24 Q. Yeah.

25 A. -- and direct pressure, but you're

1 leaving out the other thing we just talked
2 about.

3 Q. No, I'm talking about them in two
4 different times. I'm talking about the fact
5 that we have talked for a moment about the peer
6 group that you want to emulate, and we've
7 finished talking about that. Now, I'm talking
8 about the other peer group now.

9 A. Okay. We can talk about them
10 sequentially but they actually occur
11 simultaneously.

12 Q. Meaning you have two different peer
13 groups always at the same time?

14 A. Oh, more than that. At least two.

15 Q. Always?

16 A. Well, different people have
17 different numbers, but --

18 Q. Okay. All right. So in every
19 instance of every person who is an adolescent
20 who initiates smoking, they've got the
21 influences of at least two peer groups: One
22 they want to emulate and one that invites them
23 to smoke in some fashion?

24 MR. LONG:

25 Object to the form.

1 EXAMINATION BY MR. BRUNO:

2 Q. Right?

3 A. Some who serve as negative role
4 models, some who serve as positive role models.
5 I mean, there are a lot of dimensions that you
6 can use to characterize the peer groups.

7 Q. Well, it's got to be positive in
8 the context of smoking because we're talking
9 about the business of the initiation of
10 smoking, aren't we?

11 A. We're talking about initiation of
12 smoking. But I would not limit it to just
13 positive role models. I could use someone I
14 really don't want to become like and try to do
15 the opposite of everything that person does.
16 And maybe that person is not a smoker, and
17 that's one of the things I would choose not to
18 emulate is non-smoking.

19 Q. All right. But that's that other
20 subtle influence, if you don't want to call
21 it indirect or direct? It's not -- They're
22 telling you smoke or don't smoke; right?

23 A. Yeah, if it's somebody who's a
24 negative role model for me.

25 Q. Right. I mean, I guess what I'm

1 confused by is which group are you in if your
2 mom and dad say "Don't smoke," I mean, they're
3 telling you something, they're communicating
4 to you and you go, "I'm going to get you, I'm
5 going to smoke," does that put you into the
6 subtle influence category or the direct
7 influence category?

8 MR. LONG:

9 Object to the form.

10 A. Mom and dad are generally considered
11 parents, not peers.

12 EXAMINATION BY MR. BRUNO:

13 Q. Okay. But parents can be
14 individuals who you would emulate, too. I
15 understand they can be parents and not peers.

16 A. Absolutely.

17 Q. But a kid can either, A., see mom
18 and dad smoking and go, "My mom and dad are
19 cool, I want to be like them and smoke"; or,
20 B., see mom and dad, don't like them a whole
21 lot and say -- and they don't smoke, and I want
22 to go smoke just to be different from mom and
23 dad; or mom and dad can say, "Hey, you, don't
24 smoke," and you want to make them angry so you
25 smoke, how does all this get pigeonholed?

1 Which group is which? Is it the verbal
2 communication that distinguishes the two?

3 MR. LONG:

4 Object to the form. And
5 distinguishes the two in what way?

6 EXAMINATION BY MR. BRUNO:

7 Q. So that they get into Group A or
8 Group B or, for you, Column A or Column B?

9 MR. LONG:

10 I have no idea what Column A or
11 Column B are.

12 EXAMINATION BY MR. BRUNO:

13 A. Well, the witness identified two
14 groups. And maybe we need to go back for Gary.
15 But we have identified these two groups, these
16 two types of peer group influences: The emula-
17 tion type and the other was the influencing
18 type or the pressure, you called it pressure;
19 right?

20 Didn't we?

21 A. Direct and indirect pressure.

22 Q. Yes. So you've got the two groups.
23 Tell Gary real quick. You have two groups.

24 MR. LONG:

25 She was talking about parents.

1 And she just said parents weren't peers.

2 MR. BRUNO:

3 No, no, she said there's three
4 categories of individuals in each group;
5 right?

6 MR. LONG:

7 I'll bud out.

8 THE WITNESS:

9 Three?

10 EXAMINATION BY MR. BRUNO:

11 Q. Don't you have the siblings can
12 also have the indirect pressure and the direct
13 pressure right?

14 A. It wouldn't be a group. It might
15 be a role model. And, you know, you limit it
16 to one that's a negative or a positive role
17 model that you could want to emulate or want to
18 do the reverse of.

19 Q. Yes.

20 A. And that same individual could
21 apply direct pressure or not.

22 Q. Right. That's what I'm saying.
23 But you can fit the parents and the siblings
24 in the same dichotomy?

25 A. I guess you could if you wanted to.

1 Q. Right. So why don't you?

2 A. I don't really see the point of
3 doing that. I don't really see why --

4 Q. Okay. So what's the point of doing
5 it in the case of the peer groups?

6 A. Well, that probably emerged as a
7 result of complaints about findings that --

8 Q. Wait. Who's complaining about
9 whose findings?

10 A. Well, I'm trying to identify the
11 evolution of this. But the way that people
12 operationalize peers differs in every study.
13 Sometimes it's how many of your best friends
14 or it's your best friend or it's how many of
15 the people you know or it's your same sex best
16 friend or your same -- opposite sex best friend
17 or --

18 Q. Yes.

19 A. There are all kinds of
20 operationalizations of peers and friends and --
21 This was an attempt, I think, to identify how
22 peer pressure can work in two different ways,
23 even if this person is not your best friend.
24 If it is indirect pressure, aspirational
25 groups have to be included as well, so --

1 Q. Right.

2 Has any of this work been done in
3 the context of marijuana?

4 A. Oh. Well, there has been work done
5 on substance abuse and --

6 Q. Well, no, no, no.

7 A. Yes. On marijuana, yes.

8 Q. Come on, don't do that to me. It's
9 too late. All right. There has been some work
10 done on this on marijuana?

11 A. (Witness nods head affirmatively.)

12 Q. Okay. So my question to you is
13 have these studies shown that the peer groups
14 influence the use of marijuana in the same way
15 that the peer groups influence the use of -- I
16 should say, forgive me -- initiate the use of.
17 Scratch that.

18 The work on marijuana, does it
19 demonstrate that the peer groups cause an
20 initiation of marijuana usage in the same
21 way that the peer groups cause initiation
22 of cigarettes?

23 MR. LONG:

24 Object to the form.

25 A. Okay. The studies that involve

1 marijuana use that I have seen don't replicate
2 the studies that I have seen on tobacco use.
3 However, --

4 EXAMINATION BY MR. BRUNO:

5 Q. Well, --

6 A. However, please let me finish.

7 Q. Okay. You can do however and I
8 want to know why. So you get the however
9 first, then I'll get the why.

10 A. Okay. But the findings indicate
11 that the strongest influences on marijuana use
12 and other substance use is, in fact, parents
13 and friends.

14 Q. Okay. Now, answer my question,
15 which is how does it not replicate the
16 cigarette work?

17 A. Well, to replicate, you would need
18 to follow the exact same methodology. You'd
19 have to pick the sample in the same way, you'd
20 have to pick it from the same age group, you'd
21 have to apply the same measures, use the same
22 questions.

23 Q. So how is it different?

24 A. Well, the studies that I've seen
25 generally come from different sources and

1 social science sources. The ones that I have
2 seen come from, for example, Joe Califano, the
3 CASA study from Columbia University which was
4 done not as an academic journal article but
5 more like a national survey.

6 Q. Was it adolescents, children,
7 adults?

8 A. Adolescents and children. I would
9 have to check the exact ages. But there were
10 some really interesting findings from that
11 study that suggest parents have a great deal
12 of influence and --

13 Q. Negative or positive?

14 A. Can have a very positive influence.
15 And that --

16 Q. So that if mom and dad are doing
17 it, kids are likely to do it? By "positive,"
18 I guess you mean that it will initiate the
19 behavior?

20 A. No, I'm sorry, I meant a positive
21 influence in that they will prevent the
22 behavior from occurring.

23 Q. Okay. Well, we're talking about
24 initiation here. We're not talking about
25 prevention. Let's be sure we're clear on that.

1 I'm talking about whether or not there are any
2 studies that replicate the business that the
3 peers will initiate marijuana usage?

4 A. Well, friends are identified as
5 influential in the study. I'd have to go back
6 and see exactly what questions they were asked
7 to determine.

8 Q. Well, so the studies do not
9 replicate the cigarette work?

10 A. No, they don't.

11 Q. They don't. Because it doesn't
12 produce the same findings? You cannot say that
13 the primary or most important factor in the
14 decision by an adolescent to use marijuana is
15 peers, mother and father, or siblings; right?

16 A. That I cannot say those are the
17 influences; is that what you're asking me?

18 Q. I'll give it to you one more time.

19 You cannot say that the singlemost
20 important factor in the decision by an
21 adolescent to use marijuana is not the big
22 three, parents, peers and friends?

23 MR. LONG:

24 Object to the form.

25 A. I'm not sure you can say that.

1 EXAMINATION BY MR. BRUNO:

2 Q. Well, can you say it affirmatively?
3 Can you say, can you give me a study which says
4 that the singlemost important factor in the
5 decision by an adolescent to initiate marijuana
6 usage is peers, parents and siblings? And, if
7 so, let me have the study.

8 A. Oh. You have one in your reliance
9 materials.

10 Q. All right. So the answer is "Yes."

11 A. And I would have to say -- see it
12 to remember exactly how the findings are
13 worded. But the findings state that parents
14 and siblings are the factors of influence.

15 Q. And not peers?

16 A. I said friends; didn't I?

17 MR. LONG:

18 No.

19 MR. BRUNO:

20 No.

21 THE WITNESS:

22 Oh, I'm sorry. Parents, siblings
23 and friends.

24 MR. BRUNO:

25 No, you said --

1 THE WITNESS:

2 I'm sorry.

3 MR. BRUNO:

4 That's why I'm trying to follow
5 this.

6 THE WITNESS:

7 No, those --

8 EXAMINATION BY MR. BRUNO:

9 Q. Say it one more time so we get it
10 right this time. Those studies with regard to
11 the instillation of marijuana use point to
12 parents --

13 A. -- family and friends.

14 Q. It's generalized to family?

15 A. Well, for example -- Okay.

16 Q. Now, is family and friends the same
17 as peers? That doesn't sound the same to me.

18 A. No, family is not peers.

19 Q. Friends aren't peers, either; are
20 they?

21 A. Yes.

22 Q. Is that how friends are defined in
23 the tobacco work?

24 A. Yes.

25 Q. They're all friends?

1 A. Yes. Friends and --

2 Q. Well, now, you see, you've confused
3 me. Because how in the heck can you call the
4 people that you're not in their peer group, so
5 you sure as heck are not their friends because
6 they won't let you in and you're trying to
emulate them? How is that friends?

7 MR. LONG:

8 Object to the form.

9 A. You asked if it was used in the
10 tobacco work. And it is. That list that I
11 went through of operationalizing peers, best
12 friends, that whole list that I mentioned
13 awhile ago is certainly used in the tobacco
14 work.
15

16 EXAMINATION BY MR. BRUNO:

17 Q. Yes. But there is a distinction
18 between peers and friends; isn't there?

19 A. In addition to that --

20 Q. Well, just answer my question.
21 There's a big distinction between peers and
22 friends?

23 A. There's not a big distinction.

24 Q. They are the same?

25 A. No. Yes. Yes, they are the same.

1 Q. Okay. That's fine.

2 A. And peers may also include those
3 besides your immediate group of friends.

4 Q. Well, clearly, that's a distinction
5 that I was thinking about.

6 A. Okay. But that's another part of
7 peers. But friends are definitely peers that
8 are referred to in all of that.

9 Q. Well, I understand that.

10 But I was given to understand from
11 your discussion of the tobacco work that there
12 was a specific and distinct group of
13 individuals who were not friends, and there was
14 an emulation factor, and there was a they're-
15 cool-and-I-want-to-be-like-them factor.

16 MR. LONG:

17 Object to the form.

18 EXAMINATION BY MR. BRUNO:

19 Q. And that's why I wanted to know
20 if the marijuana work made some distinction
21 between the friends and peer group. And it
22 didn't sound like it did because you didn't
23 identify peers in the marijuana group; you
24 identified family and friends.

25 And couldn't the distinction be

1 based upon the fact that marijuana is illegal
2 and that they're more likely to be associated
3 with the use of the marijuana in more quiet
4 or, you know, circumstances that would be not
5 available for the police to see? And that
6 would explain the family and friends connection
7 as opposed to the more general peer connection?

8 MR. LONG:

9 Object to the form.

10 A. Friends would be the peers they're
11 referring to. And, you know, I -- It's a very
12 long study and I would need to go back to it
13 because I haven't picked out those questions
14 that were used to see exactly how they
15 operationalize friends in that study.

16 EXAMINATION BY MR. BRUNO:

17 Q. But they did use the word "friends"
18 and not "peers"?

19 A. Yes.

20 Q. And in the tobacco work, they use
21 the word "peers" and not "friends"?

22 A. They used both.

23 Q. In the tobacco work, they use both?

24 A. Yeah.

25 Q. Okay. How about alcohol?

1 A. The same study.

2 MR. LONG:

3 Sure.

4 EXAMINATION BY MR. BRUNO:

5 Q. The marijuana study was an alcohol
6 study?

7 A. Yes. It was substance abuse,
8 smoking, alcohol use, marijuana use, crack
9 cocaine use.

10 Q. Okay. What study is that?

11 A. It's CASA.

12 Q. C-A-S-A?

13 A. Uh-huh (indicating affirmatively).

14 Q. Okay. CASA.

15 A. Columbia University.

16 Q. Columbia.

17 A. Center for Alcohol and Substance
18 Abuse, I think that's what the CASA stands for.
19 Joseph Califano, Jr. is one of the named
20 authors. But it was done through Roper and
21 some other national polling firms. It's very
22 interesting.

23 Q. Okay. How do you explain, if
24 family and friends are the most influential
25 factor, that marijuana use isn't the -- that

1 marijuana initiation is not the same among
2 adolescents as between cigarettes and
3 marijuana?

4 A. Marijuana use is not the same --

5 Q. Initiation of marijuana use and
6 initiation of smoking.

7 A. They're two different substances.

8 Q. Oh, I understand. Shouldn't the
9 rate of initiation be the same?

10 A. I don't see why.

11 Q. Okay. Why not?

12 A. They're not the same substance.

13 Q. Okay. But shouldn't the rates be
14 the same?

15 MR. LONG:

16 Objection. Asked and answered.

17 A. I don't see why.

18 EXAMINATION BY MR. BRUNO:

19 Q. The rates should not be the same?

20 A. I don't see why they would be.

21 Q. I mean relatively now, I mean,
22 considering the volumes are different?

23 A. I don't see why they necessarily
24 would be.

25 Q. Because the influences are the

1 same, family and friends. And there are no
2 other, presumably, no other influences because
3 in cigarettes you're discounting advertising
4 and all the other stuff. So that as between
5 the two groups, the relative rates should be
6 the same?

7 A. Well, not if the attitudes and
8 values and beliefs about those two substances
9 differ.

10 Q. Okay. The attitudes, values and
11 beliefs are different between those two
12 substances; aren't they? In the community at
13 large?

14 A. It appears to me that way, yes.

15 Q. Well, you're hesitating. Do you
16 need to go consult a book or something?

17 MR. LONG:

18 Object to the form of the question.

19 EXAMINATION BY MR. BRUNO:

20 Q. I mean, are they the same or not?

21 A. It appears that they are not the
22 same.

23 Q. It would appear to you?

24 A. Sure.

25 Q. Okay. All right. Now, whose

1 attitudes, values and beliefs are you referring
2 to?

3 A. The people that you say would serve
4 as the role models and the influencing agents.

5 Q. Friends, siblings and parents;
6 right?

7 A. Right.

8 Q. Okay. So does it follow that if
9 you changed the attitudes, values and beliefs
10 of that group, I should say the three groups,
11 friends, family and siblings, that you would
12 necessarily impact the number of individual
13 adolescents who initiate smoking?

14 MR. LONG:

15 Object to the form.

16 A. If there were a general change in
17 attitude about marijuana, I wouldn't be
18 surprised if -- In other words, if the society
19 accepted it --

20 EXAMINATION BY MR. BRUNO:

21 Q. Yes.

22 A. -- I wouldn't be surprised if that
23 occurred along with increased rates of use --

24 Q. Right.

25 A. -- and initiation.

1 Q. And if society accepted tobacco
2 less, then the rate of initiation, likewise,
3 should go down; right?

4 A. As attitudes turn against tobacco
5 use, you would expect fewer people to be
6 initiating.

7 Q. You would expect that.

8 And over the past years, the
9 attitudes against tobacco have gotten -- I
10 mean, you know, attitudes, values and beliefs
11 have changed over the past two or three years;
12 don't you agree?

13 MR. LONG:

14 Object to the form.

15 A. I've seen more vocal expression of
16 tobacco use.

17 EXAMINATION BY MR. BRUNO:

18 Q. Okay. That doesn't answer the
19 question, which is very simple. Have the
20 attitudes, values and beliefs about tobacco
21 use changed up or down over the past, say,
22 five years?

23 A. I'm not sure I know that.

24 Q. Okay. Have the attitudes, values
25 and beliefs about tobacco changed in the past

1 25 years?

2 A. I mean, I'm sure there is a poll
3 that has used the same question year after year
4 to determine that, but --

5 Q. Right. Right.

6 But you would agree with me that if
7 the attitude and values -- I mean, if the polls
8 reflect that over the past five years, the
9 attitudes, values and beliefs regarding tobacco
10 use have gone down, you would likewise see a
11 reduction in adolescent initiation of smoking?

12 A. Now, when you say go down, do you
13 mean -- what are beliefs that go down?

14 Q. In other words, more negatives.

15 A. Oh.

16 Q. More negatives.

17 A. Oh.

18 Q. My scale has got a zero and then
19 positives and negatives. And with regard to --
20 I'm going to call it an attitudes, values and
21 beliefs scale. And over time, you would agree
22 with me over time since 1955 in general, the
23 attitudes, values and beliefs with regard to
24 tobacco use have gone down using my scale;
25 right?

1 A. That they've become more negative
2 for the general population, for subcultures or
3 for --

4 Q. Yes.

5 A. -- target segments or fragments of
6 the market?

7 Q. All of the above. All of the
8 above.

9 A. For all of the above?

10 Q. All of the above. For everybody.

11 A. Then I can't make that statement.

12 Q. Okay. You can't. Because in some
13 groups it's gotten higher. Which groups -- For
14 which groups has tobacco use been more positive
15 attitudes, values and beliefs?

16 MR. LONG:

17 Object to the form of the question.

18 A. As I said, I don't --

19 EXAMINATION BY MR. BRUNO:

20 Q. You don't know.

21 Okay. Well, why can't you say
22 then? If you don't know which subgroups the
23 attitudes, values and beliefs have gotten
24 better, why can't you say for which ones it's
25 gotten worse?

1 MR. LONG:

2 Object to the form of the question.

3 A. As I said, I'm sure the data exists
4 somewhere tracking attitudes, values and
5 beliefs about the tobacco company over the past
6 25 years for the population at large and for
7 subgroups of the population, but I haven't seen
8 that. Or it doesn't occur to me now.

9 EXAMINATION BY MR. BRUNO:

10 Q. All right. It doesn't occur to you
11 now?

12 A. No.

13 Q. So you have no opinion as to
14 whether or not, in the population at large,
15 the attitudes, values and beliefs regarding
16 cigarette smoking have changed for the better
17 or the worse?

18 MR. LONG:

19 Object to the form.

20 EXAMINATION BY MR. BRUNO:

21 Q. Right?

22 A. I haven't seen data. I could
23 speculate about the population at large,
24 but you don't want me to do that.

25 Q. All right. For any segment of

1 the population, have you seen any data that
2 reflects the attitudes, values and beliefs
3 regarding cigarette use?

4 A. Cigarette use. Oh, well, now,
5 wait, you're changing. I'm sorry. You've
6 got me thinking about attitudes, values and
7 beliefs.

8 Q. No, I'm sorry. I'll go back. I
9 want to be consistent. Because you originally
10 said attitudes, values and beliefs with regard
11 to tobacco; right?

12 A. Right. Well, I thought that's
13 where we started.

14 Q. Okay. Well, I don't want to go --
15 Forgive me.

16 A. Okay.

17 Q. I'm wrong.

18 I'm talking about the attitudes,
19 values and beliefs towards tobacco. You don't
20 -- You can't tell me whether or not you think
21 that those attitudes, values and beliefs are
22 more positive now than they were before or more
23 negative than they were before?

24 MR. LONG:

25 Object to the form. Asked and

1 answered.

2 A. I haven't seen any tracking studies.

3 EXAMINATION BY MR. BRUNO:

4 Q. No tracking studies. So you have
5 no opinion on that subject; right?

6 A. Whether --

7 Q. Well, if you've not seen the
8 studies, I mean, do you have an opinion, "Yes"
9 or "No," as to whether or not over some period
10 of time in the past, attitudes, values and
11 beliefs with regard to tobacco are more
12 positive or more negative than they were?

13 A. My personal experience is that they
14 have become much more negative and people have
15 become much more vocal about their negative
16 attitudes toward the industry.

17 Q. Right.

18 A. And some legislation has been
19 enacted as a result of that.

20 Q. Right.

21 A. I haven't seen a study on it, so --

22 Q. All right. That's fine. That's
23 fine.

24 Have you seen any studies
25 addressing whether adolescent initiation of

1 smoking has gone up or down in the past, say,
2 five years?

3 A. Yes.

4 Q. And what has that research shown?

5 A. I think -- My recollection is that
6 initiation is up among younger people.

7 Q. Right.

8 A. But that the general population
9 shows a decline.

10 Q. Going down.

11 Boy, how does that -- Does that
12 make sense to you? I mean, if --

13 MR. LONG:

14 Object to the form of the question.

15 EXAMINATION BY MR. BRUNO:

16 Q. -- if the attitudes, values and
17 beliefs about tobacco are getting worse, how is
18 it that adolescent initiation is going up? If,
19 in fact, it's just peers, just family and just
20 siblings?

21 MR. LONG:

22 Object to the form.

23 EXAMINATION BY MR. BRUNO:

24 Q. How can that be?

25 A. Because one reason may be this is a

1 segment of the population. And by "segment,"
2 it means they are like each other but different
3 from the rest of the population at large. And
4 share values which are different from the
5 values shared by the population at large.

6 Q. Okay.

7 A. And within that group who have
8 begun smoking, attitudes towards smoking are
9 not reflective of the general population's
10 attitudes.

11 Q. Okay. Where does that come from?

12 MR. LONG:

13 Object to the form.

14 A. Well, we could go back to your
15 theory about seeing parents who do not smoke
16 and wanting not to be like those parents.

17 EXAMINATION BY MR. BRUNO:

18 Q. Right. Okay.

19 A. I mean, there are a lot of ways you
20 can --

21 Q. Influence that population; right?

22 A. -- you can create possible
23 explanations.

24 MR. BRUNO:

25 Got you. Okay. Thank you very

1 much. No more questions.

2 THE VIDEOGRAPHER:

3 This concludes the videotaped
4 deposition. We're going off the record
5 at 4:34.

6 (Whereupon the deposition was
7 concluded at 4:34 o'clock p.m.)

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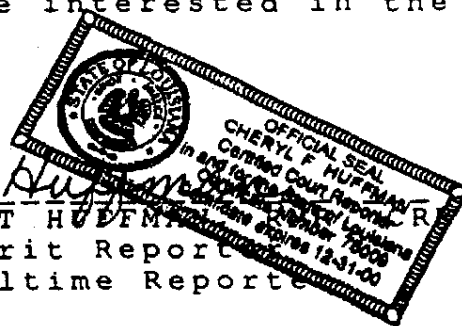
I have read or have had the foregoing testimony read to me and hereby certify that it is a true and correct transcription of my testimony, with the exception of any attached corrections or changes.

-----LUCY LOUISE HENKE-----

REPORTER'S CERTIFICATE

I, CHERYL FOURNET HUFFMAN,
Registered Merit Reporter, in and for the State
of Louisiana, as the officer before whom this
testimony was taken, do hereby certify that
LUCY LOUISE HENKE, after having been duly sworn
by me upon authority of R.S. 37:2554, did
testify as hereinbefore set forth in the
foregoing 403 pages; that this testimony was
reported by me in the stenotype reporting
method, was prepared and transcribed by me or
under my personal direction and supervision,
and is a true and correct transcript to the
best of my ability and understanding; that I am
not related to counsel or to the parties
herein, nor am I otherwise interested in the
outcome of this matter.

Cheryl F. Huffman
CHERYL FOURNET HUFFMAN
Registered Merit Reporter
Certified Realtime Reporter
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New Orleans, Louisiana 70139
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Post Office Box 194
Cape Porpoise, Maine 04014
October 25, 1993

Mr. Stephen J. Macynaldi
Jones, Day, Heavill and Fogue
901 Lakeside Avenue
Cleveland, Ohio 44114

Dear Steve:

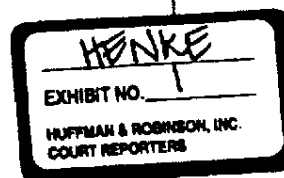
Enclosed is a manuscript describing the findings of my study of children's perceptions of brand advertising symbols. I have submitted the paper to the American Academy of Advertising for possible presentation at their conference in the Spring.

Sincerely,

L. Henke
LLOYD L. HENKE

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**YOUNG CHILDREN'S PERCEPTIONS OF
CIGARETTE BRAND ADVERTISING SYMBOLS:
AWARENESS, AFFECT AND TARGET AUDIENCE IDENTIFICATION**

*by Lucy Henke
Associate Professor of Marketing
University of New Hampshire*

Abstract

The present study was designed to assess how recognition of cigarette brand advertising symbols is related to (1) age or cognitive developmental level; (2) affect toward cigarettes; (3) evaluation of cigarettes; and (4) identification of the appropriate target market for cigarettes. Children aged three to eight were interviewed using a series of nonverbal measures. Recognition of cigarette brand advertising symbols increases with age, as does overall recognition of brand advertising symbols in general. Regardless of age, cognitive developmental level, or recognition scores, children reported that they do not like cigarettes; believe that cigarettes are "bad for you"; and find children to be inappropriate target markets for consumption of cigarettes. Findings are discussed in terms of social science and public policy; and in terms of the implications for cognitive development.

TOPIC: Advertising to Children

*Manuscript submitted to American Academy of
Advertising, October, 1993*

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Young Children's Perceptions of Cigarette Brand Advertising

Symbols: Awareness, Affect, and Target Audience Identification

Or

Beating A Dead Camel

INTRODUCTION AND BACKGROUND

Since the publication of the December 1991 issue of the Journal of the American Medical Association, Old Joe the Camel has come to symbolize the ongoing controversy regarding the appropriateness of advertising adult products using trade characters which appeal to children. The issue of JAMA contained three studies which purported to examine the impact of Joe Camel and other cigarette brand advertising on children from the ages of three to seventeen. The studies collectively formed an indictment of cigarette advertising and individually concluded that: (1) "cigarette advertising may be an important health risk for children" (Fischer, Schwartz, Richards, Goldstein and Rojas, 1991); that (2) public policy should ban all forms of cigarette advertising and promotion (Pierce, Gilpin, Burns, Whalen, Rosbrook, Shopland, and Johnson, 1991); and that (3) "a total ban of tobacco advertising and promotion, as part of an effort to protect children from the dangers of tobacco, can be based on sound scientific reasoning" (DiFranza, Richards, Paulman, Wolf-Gillespie, Fletcher, Jaffe and Murray, 1991).

Based in part on the conclusions of the JAMA studies, the staff of the Federal Trade Commission recommended in August of 1993 that ads featuring Joe Camel be barred as a health hazard because they encourage minors to smoke (Teinowitz and Colford, 1993).

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Unfortunately, however, there is widespread disagreement regarding the validity of the IAMA studies' findings and the accuracy of their interpretations. Researchers have suggested that several methodological failings of the studies invalidate their findings (Mizerski, Sonner, and Straughn, 1992).

Perhaps more important—especially when social science research is used to guide policy-making—the conclusions of the IAMA studies are not necessarily based on findings.

Fischer and his colleagues, in particular, sought to measure brand logo recognition among young children, but their conclusions are based on assumptions about behavior rather than recognition. Finding high levels of awareness of Old Joe among young children, Fischer and his colleagues assumed a link between logo recognition and intended use, and concluded that cigarette advertising may be an important health risk for children. They did not, however, measure product-related affect or intentions. Clearly, measures of awareness do not justify conclusions regarding affect, behavior, or behavioral intent. Specifically, the high awareness of Old Joe found among young children in the study does not provide evidence that children like cigarettes, intend to use cigarettes, or accept cigarette smoking as appropriate behavior.

In fact, research from both social science and industry suggest that awareness of cigarette trade characters is either unrelated or is negatively related to affect for the trade character and for the product category. Mizerski (1992) found that positive affect toward cigarettes decreased with age among children ages three to six, while their awareness of Old Joe increased. Levin (1993) reported that awareness of Old Joe increased among children from six to seventeen, but the character's likability remained low among the same children.

Cognitive developmental theory would also suggest that awareness is not positively related to affect. Piagetian theory, for example, argues that children progress through a series of stages marked by qualitative changes in their information processing abilities. As memory increases from one stage to the next, so does the ability to perform more complex cognitive tasks including abstract thinking, perspective-taking, critical thinking, and the making of moral judgements (Piaget, 1955; Piaget and Inhelder, 1969). Thus, one would expect that as a child's ability to remember brand advertising symbols increases with an increase in cognitive development, so does the ability to evaluate the brand and product category within an increasingly complex contextual framework.

FOCUS OF THE PRESENT STUDY

The present study is designed to assess the relationship between awareness of brand advertising symbols and attitudes toward advertised products. Specifically, the study seeks to determine how recognition of cigarette brand advertising symbols is related to (1) age or cognitive developmental level; (2) affect toward cigarettes; (3) evaluation of cigarettes; and (4) identification of the appropriate target market for cigarettes.

PREVIOUS RESEARCH

Children and Advertising

Several early studies of children and their perceptions of advertising are relevant to the present investigation. Previous research has shown that children's understanding of advertising becomes increasingly complex with age and is positively related to other factors including cognitive development, socioeconomic status, and adult-child interaction (Belk, Bahn, and Mayer, 1982; Meyer, Donohue, and Henke, 1978; Ward, Reale, and Levinson,



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1972). As age and understanding increase, so does: (1) the ability to separate advertisements from editorial or program content (Donohue, Henke and Meyer, 1983); (2) understanding of the persuasive intent of ads and the concept of sponsorship (Meyer, et. al., 1978; Ward, et. al., 1972); (3) skepticism regarding advertising claims (Bever, Smith, Bengen and Johnson, 1975); and (4) understanding of the concept of market segmentation--that some products and ads are intended for some audience members and not for others (Belk, et. al., 1987; Donohue, Henke, and Donohue, 1980; Henke, 1980).

Cognitive Development Theory

Piaget (1955; Piaget and Inhelder, 1969) asserts in his cognitive developmental stage theory that children progress in sequential fashion through stages of development characterized by qualitative differences in information processing abilities.

Children in the pre-operational stage are characterized by egocentrism, by inability to engage in perspective-taking, and by the tendency to make judgments on the basis of perceptual attributes. Children in this stage would be expected to have difficulty with the concept that some television programs, products or ads are not designed for them, and would therefore be expected to have lower scores on target market identification measures for adult products.

Following the pre-operational stage is the stage of concrete operations. Children in the concrete operational stage can perform mental manipulations, engage in perspective-taking, and make judgments on the basis of the processing of information on both perceptual and deeper cognitive levels. They would be expected to understand target market segmentation and to identify the appropriate targets for products not intended for children.

5

It is not clear at what age the pre-operational stage ends and the concrete operational stage begins. Standard Piagetian tests of cognitive development generally place children under five or six years of age in the pre-operational stage, children older than seven in the concrete operational stage. However, the age of concrete operations is not fixed. First, some children enter the concrete operational stage at younger ages than others. Second, there appears to be a transition period between pre-operational and concrete operational stages during which a child demonstrates some, but not all, abilities associated with concrete operations.

The Relationship Between Age and Stage. Environmental variables, such as socioeconomic class, appear to facilitate forward movement from pre-operational to concrete operational stage at a younger age. Piagetian theory asserts that a child whose biological structures are ready to perform concrete operations can do so only when the appropriate challenges are encountered in the external environment. Children from households in higher socioeconomic levels may enter concrete operational stage at a younger biological age because they encounter a more varied environment which provides the situations necessary to complete the move to concrete operations.

Abilities During Transition. Second, there is evidence that the move to concrete operations does not result in across-the-board development of abilities, but that some concrete operational skills develop earlier than others. Some researchers have found that children are able to demonstrate empathy and perspective-taking--skills attributed to the stage of concrete operations--as early as three years of age when nonverbal measures are used (Borke, 1971; Donohue, et. al., 1980; Henke, 1980). Whether the ability to empathize develops prior to

6

other concrete operational abilities, or the nonverbal measures simply allow the skill to be demonstrated at an earlier age is not clear. The findings suggest, nevertheless, that each child may experience a period of transition between fully pre-operational and fully concrete operational stages, during which various skills are acquired and demonstrated. During the transition stage, external environmental variables may play a large role in facilitating the acquisition of skills.

HYPOTHESES AND RESEARCH QUESTIONS

Based on previous research, the following hypotheses were generated:

- H 1:** As age increases, overall recognition of brand advertising symbols will increase.
- H 2:** As age increases, recognition of cigarette brand advertising symbols will increase.
- H 3:** As age increases, identification of adults as the appropriate target market for cigarettes will increase.
- H 4:** There will be a significant positive correlation between recognition and target market identification scores.

In addition, the study was designed to address the following research questions:

- Q 1:** What is the relationship between the independent measures of age and cognitive developmental level and the dependent measures of awareness of brand symbols and identification of target market?

7

Q 2: Specifically, how are age and cognitive developmental level related to:

- (a) awareness of brand advertising symbols--a function of attention and memory; and
- (b) the ability to identify the appropriate target market for cigarettes--a function of perspective-taking?

METHODOLOGY

To test the hypotheses and to provide answers to the research questions, interviews were conducted with children in preschool through second grade.

Procedure

Interviewers. Interviews were conducted by five undergraduate students from the University of New Hampshire and one child care professional from Maine. The interviewers participated in a training session to familiarize them with the study materials and to prepare them to conduct the interviews. Five of the six interviewers were unaware of the research questions being examined in the study. Interviewing took an average of 20 minutes per subject and was completed in three days.

Subject Assent and Parental Consent. Assent was obtained from each child before his or her interview took place. Children in classrooms were invited to participate in the interviewing session, which they were told included playing games and looking at pictures. Children who were interested were removed from the classroom and taken to a separate room where one-on-one interviews were conducted. Interviewers were instructed to terminate the interview if visual and verbal cues indicated a subject's discomfort with the interview or unwillingness to

continue. The children understood they were not required to participate in the interviewing. Only one child declined to be interviewed, and one child terminated the interview before completion.

Parental consent forms were distributed during the week prior to interviewing. The consent form requested permission for the children to participate in a study of their perceptions of advertising. The forms made no reference to the specific product categories or brands under study. The forms gave the parents the option of receiving a summary of study results. One parent asked that her child not be interviewed. Five requested a summary of results.

The Sample

There was a total of 83 subjects in the study who ranged in age from three to eight years. The children were from middle class neighborhoods in and around Kennebunkport, a coastal town in southern Maine. Fifty-four percent (54%) were males.

The Variables

Cognitive Developmental Level. In the first part of the interview, three tests of cognitive development were administered. Two assessed conservation of number; one examined conservation of liquid.

Recognition of Brand Advertising Symbols. The second portion of the questionnaire tested the subjects' ability to match brand advertising symbols to the correct product category represented by the brand.

A 16" by 16" laminated board, consisting of photographs of various adults' and children's products, was introduced as the gameboard. There were 16 photographs representing 16 different product categories in all. To ensure that subjects understood the stimulus materials, the children were asked to point to various products on the gameboard as the interviewer named them in random order.

After identification of the 16 products, the interviewer introduced a packet of cards, each featuring a specific brand trade character or other brand advertising symbol. The deck contained 23 cards. Twenty-two cards were to be used in the recognition test and one card was to be used in a practice match, conducted to ensure that the subjects had an understanding of the task. The cards portrayed 11 trade characters representing adult and child product categories including batteries, beer, books, cereal, cigarettes, dairy products, dishwashing liquid, fast food, snack food, and tires. The remaining 11 cards featured logos without trade characters, representing airlines, automobiles, beer, cigarettes, coffee, dairy products, electrical products, gasoline and telephones.

All visual references to the product category were removed from the logo cards for testing: the cigarette, for example, was masked in the Joe Camel card, the beer mugs were masked in the card for St. Pauli Girl. In addition, because many of the children being interviewed were learning to read or to "sound out" words, the brand signatures were masked to prevent internal verbalization from serving as a memory cue.

In the practice match, the interviewer presented a picture of the MacDonald's arches and asked: "What is this a picture of?" "What does it go with on the gameboard?"

Interviewing proceeded after the child demonstrated an understanding of the task.

10

For the recognition test, the interviewer presented the brand symbol cards one at a time in random order, and the child placed the card on a product square. Each card was removed before the next card was presented.

Identification of Target Market. Following the tests of recognition, the interviewer produced a packet of laminated cutout figures of young boys and girls and adult males and females. Together, the interviewer and the child selected a set of cutouts to represent adults and children in the subject's family.

For each of the subset of six product categories the interviewer pointed to the photo on the gameboard and asked the child: "Who is this product for—it is for children or adults?" The child responded either verbally or nonverbally using the cutouts. The product categories used in the target identification questions represented both children's and adult's products including beer, books, cereal, cigarettes, hamburgers, and snack food.

Affect for Product Categories. The same subset of products used in the target identification measure were used to assess affect. For each of the six products, the interviewer pointed to its photo on the gameboard and asked: "Do you like this product or do you not like this product?"

Evaluation of Product Categories. The final section of the questionnaire used the same subset of six product categories to assess perceptions of the value of the product. Pointing in random order to photos of each of the six products, the interviewer asked: "Is this product good for you or bad for you?"

After the child answered questions regarding the value of the six product categories, the interviewer thanked the child, commended him or her on a job well done, and terminated the interview.

ANALYSES

Data were subjected to a series of analyses. Responses were cross-tabulated and subjected to Chi-square analyses to identify age-related differences in (1) recognition of brand advertising symbols, and (2) identification of target audiences for brand advertising symbols. Chi-square analyses were also performed to assess the relationship between recognition and identification measures for cigarettes brands.

Pearson product-moment correlations were conducted to assess the relationship between age and (1) overall recognition of brand advertising symbols, and (2) recognition of cigarette advertising symbols.

A discriminant analysis was conducted to identify predictors of recognition of cigarette advertising symbols.

RESULTS

Two of the four hypotheses were supported. The first hypothesis, which predicted that overall recognition of brand advertising symbols would increase with an increase in age, was supported. The second related hypothesis, which predicted an increase in recognition of cigarette brand advertising symbols with an increase in age, was also supported.

Hypotheses 3 and 4, which predicted that the ability to identify the appropriate target market for cigarettes would increase with age (Hypothesis 3) and with recognition (Hypothesis 4), were not supported. All but one of the children in the study, regardless of age or recognition score, identified adults as the appropriate target audience for cigarettes. Therefore, due to the lack of variability in response, no correlations occurred for the measure of target market identification. Specific findings are reported below.

BEST IMAGE

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Age and Recognition of Brand Advertising Symbols

Recognition of cigarette brand symbols increases with age, as does overall recognition of brand symbols in general.

Pearson's product-moment correlations revealed significant positive relationships between age in months and: (1) ability to identify Joe Camel ($r = .3581, p < .001$); (2) summary score for identification of cigarette brand symbols ($r = .4240, p < .001$); and (3) summary score for overall identification of brand symbols ($r = .5921, p < .001$). See Table 1 for results of the correlation analysis.

TABLE 1
Recognition of Brand Advertising Symbols by Age: Pearson's
Product-Moment Correlations

Summary score of
overall identification
of brand symbols

Summary score of
identification of
cigarette brand
symbols

Ability to identify
Joe Camel

Age in months

13

Chi-square analyses also showed a clear age effect in recognition of cigarette brand symbols as well as in overall recognition of brand symbols in general. (Summary score for overall identification of brand symbols by age: $\chi^2 = 20.44$, $df = 4$, $p < .0004$. Summary score for identification of cigarette brand symbols by age: $\chi^2 = 14.56$, $df = 4$, $p < .006$). Tables 2 and 3 report overall recognition and cigarette recognition scores by age.

TABLE 2

Recognition of Brand Advertising Symbols by Age

Age Group	Number of Correct Responses	Percentage Correct	Standard Error	Chi-Square	df	p-value
13-15	31	49.3	5.3	20.44	4	< .0004
16-21	6	25.0	5.8			

*Chi-square test performed on frequencies, $\chi^2 = 20.44$, $df = 4$, $p < .0004$.

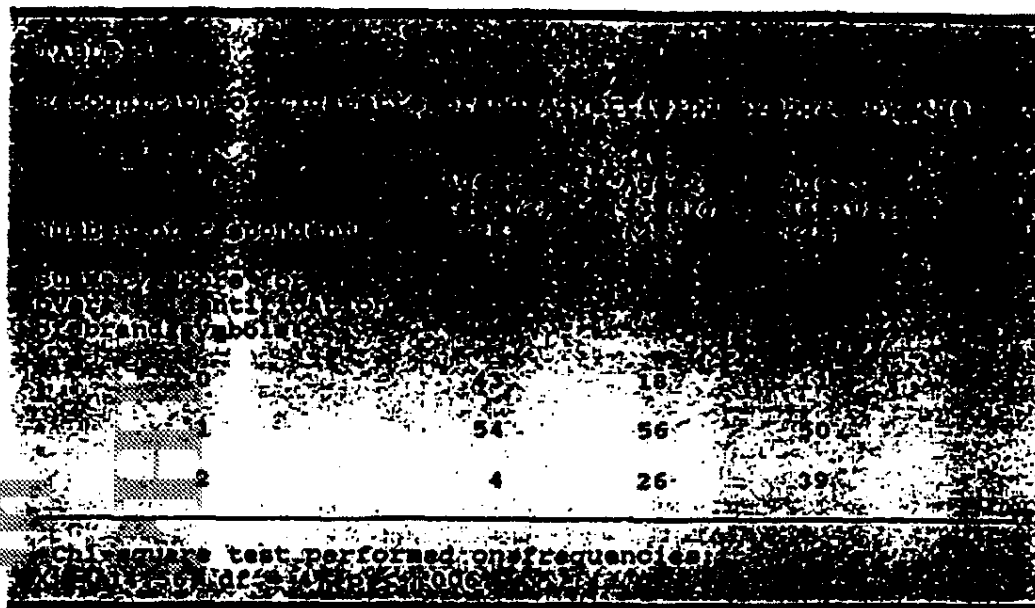
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Comparison of Current Recognition Findings to Previous Research

Current findings regarding recognition of brand advertising symbols are not dissimilar to findings of previous studies. Like the findings reported by Fischer, et.al. (1991), and Mizerski (1992), recognition rates for both children's and adults' product symbols show an increase with age in the present study. In addition, recognition rates specifically for Joe Camel among 3- to 6-year olds in the present study (54%) reflect the rates reported by Fischer (51%) and Mizerski (33% to 78% rates weighted by ages 3 to 6).

Unlike the Fischer (1991) study, however, the present study finds very high recognition rates for a number of adult product symbols besides Joe Camel. Recognition of the Energizer Bunny, for example, ranges from 61% to 100% for the 3- to 8-year-olds tested

15
In the present study. Other adult products with symbols recognized by at least half of the sample include Budweiser, Lite Beer, Oakhurst and Locust Farm (regional dairies), Chevrolet, Folger's, and Bell Telephone.

Recognition of Cigarette Brand Advertising Symbols: A Discriminant Analysis

A discriminant analysis was conducted to determine which variables best predict children's ability to match cigarette brand advertising symbols with the cigarette product category. The analysis revealed that children who correctly matched the Camel trade character and the Marlboro "red roof" trademark differed from children who were unable to identify the cigarette brand symbols on three dimensions: cognitive development, overall brand-to-product matching ability, and gender.

Specifically:

- (1) Children with higher summary scores on the tests of cognitive development made correct matches for cigarette brands significantly more often than children with lower cognitive development scores.
- (2) Children with higher overall brand-to-product matching scores made correct cigarette matches significantly more often than children with lower overall matching scores.
- (3) Males made correct matches of cigarette brands significantly more often than females.

Three discriminant groups were used in the analysis. Group 1 included children who correctly matched neither Joe Camel nor the Marlboro "red roof." Group 2 consisted of children who correctly matched only one of the cigarette brands. Children in Group 3 correctly matched both of the cigarette brands.

Five variables were included as predictor variables and were considered in the solution. A forward stepwise discriminant analysis revealed the subset of three variables which met the criterion level (via Wilk's lambda) necessary for inclusion in the model.

The linear discriminant analysis produced one function that was statistically significant beyond the .0001 level. (F between Group 1 (no correct cigarette matches) and Group 2 (one correct cigarette match) = 14.546; df = 3, 78; $p < .0000$. F between Group 2 (one correct cigarette match) and Group 3 (two correct cigarette matches) = 6.9077; df = 3, 78; $p < .0003$. F between Group 1 (no correct cigarette matches) and Group 3 (two correct cigarette matches) = 25.152; df = 3, 78; $p < .0000$.)

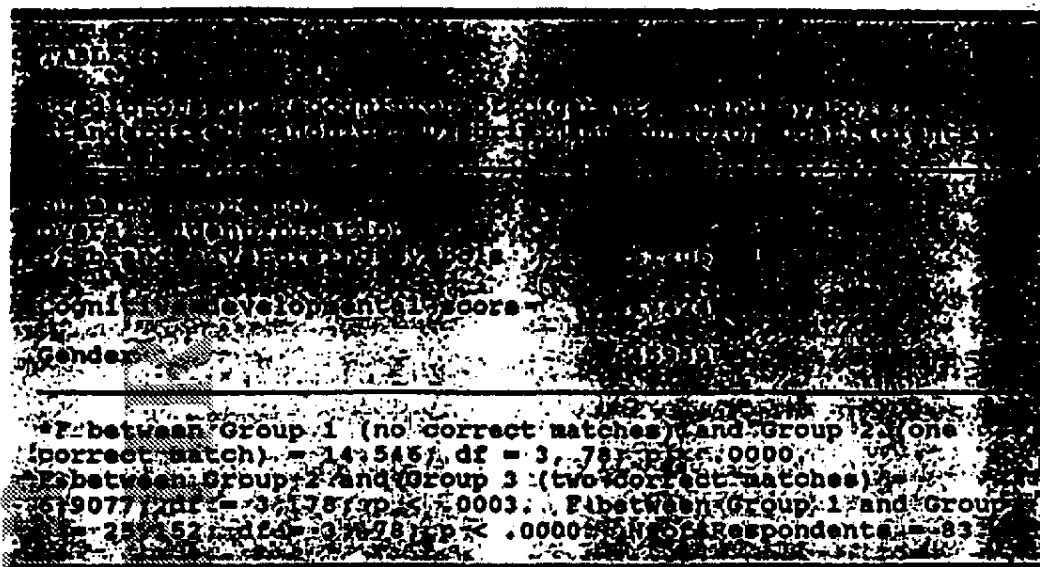
The function is composed of three predictor variables of ability to match cigarette brand advertising symbols with the cigarette product category. Each variable made a statistically significant ($p < .0000$) contribution to the function's discriminant ability.

The predictor variables and their classification function coefficients, listed in order of their relative contribution to the overall solution, are: overall matching score (.51206), cognitive developmental score (.47424), and gender (.45939). Age did not meet the criterion level necessary for inclusion in the model. Table 4 reports predictor variable and their coefficients.

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When the resulting discriminant function was applied to the data set to test its classification power, the overall figure for correct classification was 71%. Eighty-five percent (85%) of Group 1, 64% of Group 2, and 74% of Group 3 were correctly classified using the model.

The discriminant analysis thus revealed that children's ability to match cigarette brand trademarks or trade characters to the correct product category is related to (1) their overall ability to match brands to product categories; (2) their cognitive developmental level, and (3) their gender.

Affect for Cigarettes

For a subset of six product categories, the children were asked whether they liked the product or disliked the product. Ninety-six percent (96%) of the children in the study reported that they disliked cigarettes. Therefore affect is unrelated to age, cognitive level, recognition score or identification score.

Perceptions of the Value of Cigarettes

Asked whether cigarettes were "good for you" or "bad for you" 97% of the children reported that cigarettes are "bad for you." Lack of variability results in no correlations between the evaluation measure and age, cognitive level, recognition score or target market identification score.

Identification of Appropriate Target Market For Cigarettes

The children in the study were asked to identify the appropriate target market for cigarettes and five other product categories. None (0%) of the children reported that cigarettes are appropriate for children. A majority (70%) reported that cigarettes are for adults; 27% said cigarettes are appropriate for "nobody." Only one of the 83 children interviewed responded that cigarettes are for both children and adults.

Chi-square analyses were conducted to determine whether the ability to identify the target market for cigarettes is related to age or to recognition of cigarette brand symbols.

Results of the analyses are reported below.

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Cigarette Target Market Identification and Age.

Chi-square analyses revealed that the ability to identify the appropriate target market for cigarettes was unrelated to age ($\chi^2 = 4.73$, $df = 6$, $p = n.s.$). Children in every age category identified adults with greatest frequency as the appropriate target market for cigarettes. Table 5 reports cigarette target market identification by age.

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Identification of Target Market for Cigarettes by Age

	Age 12-17	Age 18-24	Age 25-34	Age 35-44	Age 45-54	Age 55-64	Age 65+
Appropriate target market for cigarettes							
Nobody	0	0	0	0	0	0	0
Adults	10	10	10	10	10	10	10
Both Adults and Children	0	0	0	0	0	0	0
No Answer/Don't Know	0	0	0	0	0	0	0

Chi-square test conducted on frequencies

$\chi^2 = 4.73$, $df = 6$, $p = n.s.$

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Cigarette Target Market Identification and Cigarette Brand Symbol Recognition.

Chi-square analyses revealed that recognition of cigarette brand symbols--specifically Joe Camel or the Marlboro "red roof"--was unrelated to the ability to identify the appropriate target market for cigarettes. (χ^2 for identification of cigarette target audience by summary score for cigarette brand matching = 4.73, df = 6, p = n.s.). Table 6 reports the findings for cigarette target markets by overall recognition of cigarette brand symbols.

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TABLE 6

Identification of Target Market for Cigarettes by Cigarette Brand Symbol Recognition

Chi-square test conducted on frequencies

df = 6, p = n.s.

Target Market for Cigarettes

Nobody	40	25
Adults	55	75
Both Adults and Children	0	0
No Answer/Don't Know	5	5

Chi-square test conducted on frequencies

df = 6, p = n.s.

Chi-square analyses revealed no relationship between recognition of specific cigarette brand symbols and assessment of the appropriate market for cigarettes. Children who correctly matched the Joe Camel trade character did not differ from others in their identification of the target market for cigarettes ($\chi^2 = 2.54$, $df = 3$, $p = n.s.$). Similarly, children who recognized the Marlboro "red roof" did not differ from others in their identification of the appropriate target market for cigarettes ($\chi^2 = 1.48$, $df = 3$, $p = n.s.$). Table 7 reports findings for identification of cigarette target markets by recognition of Joe Camel and by recognition of the Marlboro "red roof."

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TABLE

Identification of Target Market for Cigarettes by
Recognition of Joe Camel and the Marlboro Red Bird

*Chi-square tests conducted on frequencies of prior target
market identification by Joe Camel recognition = 2.54, df =
3, p = n.s.; X² for identification by Marlboro Symbol
recognition = 3.48, df = 3, p = n.s.

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Summary of Findings for Target Market Identification

Neither age nor awareness of the advertised cigarette brands had any impact on judgments of whether cigarettes were appropriate products for children to consume. Regardless of their age or their familiarity with the specific cigarette brand symbols, children found themselves to be inappropriate target markets for consumption of cigarettes.

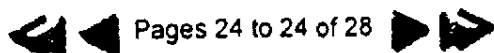
DISCUSSION AND IMPLICATIONS

Children, Social Science, and Policymaking

Findings of the present investigation confirm that, for young children, recognition of brand advertising symbols does not necessarily result in positive affect for a product category or in intent to use products in the advertised category.

Specifically, the study confirms the results of previous studies which have found high awareness of Old Joe the Camel—awareness which increases with age among young children. From 58% to 89% of children ages three to eight correctly matched Old Joe to a picture of a cigarette.

But the growing awareness of Old Joe should be viewed within the broader context. Overall recognition of more than twenty brand advertising symbols also increases with age among children in the study, and the awareness extends to a wide range of children's and adults' products, some more heavily advertised than others. These are not surprising findings, when one considers the increase in cognitive development and the enhancement of attention skills and memory capacity which occurs among children from ages three to eight. The increase in recognition of Old Joe is only a fraction of the total increase in awareness of a myriad of factors among developing children.



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To equate high awareness with positive attitudes or the intent to consume the product, however, is to make a giant leap of logic and to grossly underestimate the abilities of young children to think critically, engage in perspective-taking, and make value judgments. The present study clearly demonstrates that regardless of recognition of Old Joe, children dislike cigarettes, believe that cigarettes are "bad for you," and find cigarettes to be inappropriate for children.

The implications of these findings are twofold. First, if the efforts of social science are to result in insights of value regarding children and their capabilities, the mandate is clear: researchers must not view children as unidimensional in nature but design studies which recognize instead the complex nature of the developing child.

Second, when social science research is used to guide policy-making decisions, researchers must accept the additional responsibility of interpreting their findings with utmost accuracy and precision.

Cognitive Development

The second set of findings has implications for the cognitive development of young children. Findings of the present study regarding the identification of target audiences is somewhat surprising. Although previous research suggests there will be a high understanding of the appropriate target market among three-year-olds, the uniformity of response was somewhat unexpected.

Specifically, because recognition of Old Joe is a function of a lower-level skill of memory capacity one would expect recognition scores to increase with age and cognitive development as they did in the present study. But standard interpretation of Piagetian theory

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would suggest that unlike recognition, identification of the target audience—which is a function of the higher level skill of perspective-taking—would be low for younger (pre-operational) children and high for older (concrete operational) children. Although previous studies have found that younger children demonstrate some perspective-taking skills when a nonverbal measure is used, the uniformly high scores achieved by even the youngest children were somewhat unexpected. Virtually all of the children, regardless of age or cognitive development, identified adults as the appropriate target market for cigarettes.

A number of alternative explanations can be offered for the findings: (1) ability to empathize may develop prior to other concrete operational abilities; (2) the nonverbal method might allow measurement of the ability at an earlier age than standard Piagetian tests; or (3) the identification score may be a measure of attention and memory rather than perspective-taking. The last suggestion would imply that children are simply repeating what they have heard about cigarettes.

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Anecdotal data will provide evidence that young children are indeed effective mouthpieces for public awareness campaigns. Some mothers refer to their offspring as the environmental Gestapo who admonish household members to "return, reuse, recycle"; to turn off lights and appliances to save energy; and to take shorter showers to conserve water.

While memory may play a large role in facilitating a child's recitation of a public awareness campaign script, the Old Joe campaign is different in a significant way: There is a very low probability that children will encounter individuals who advise them not to return,

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reuse, and recycle; who advocate pollution as a sound practice; or who encourage them to waste resources. Reinforcement of the same message from several sources would facilitate low-level memorization and playback of the messages.

The controversy surrounding Old Joe, on the other hand, confronts the child with conflicting perspectives. The cigarette manufacturers suggest that cool dudes smoke, while a public awareness campaign which reaches schools, parents and mass media teaches children that drugs are for losers and that cigarettes are drugs. How is a developing child to resolve the dissonant cognitions?

Piagetian theory asserts that children who are biologically ready to make the transition from pre-operational to concrete operational stage cannot do so until they encounter situations in their environment which allow them to perform concrete operational tasks. The public debate over smoking and cigarettes, which presents at least two opposing viewpoints, may constitute a significant opportunity for children making the transition to the stage of concrete operations. Forming an opinion about the controversy--choosing sides--requires the ability to empathize, to engage in perspective-taking, and to make value judgments. Some researchers conclude that cigarette advertising may pose an important health risk for children. To the contrary, it is possible that characters such as Old Joe, by attracting the attention of young children, make the product category and the surrounding controversy more salient and thereby facilitate the acquisition of perspective-taking skills and increase understanding of the health risks associated with smoking.

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